

By Senator Passidomo

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A bill to be entitled

An act relating to regulation of commerce, trade, and labor; creating ss. 125.003, 166.015, and 189.0125, F.S.; reserving to the state the exclusive right to regulate matters of commerce, trade, and labor under certain circumstances; prohibiting counties, municipalities, and special districts from engaging in specified actions that regulate commerce, trade, or labor, unless otherwise expressly authorized to do so by special or general law; providing that an ordinance, rule, or regulation that violates a specified provision is null and void; authorizing a local government to seek nullification of an ordinance, rule, or regulation of another county, municipality, or special district upon the affirmative vote of the governing body of the local government that the ordinance, rule, or regulation violates a specified provision; requiring the local government to notify the county, municipality, or special district that the local government is initiating the process of nullification; specifying requirements for such notification; requiring the county, municipality, or special district to provide certain responses to the local government within specified periods, subject to certain requirements; requiring the local government to notify the county, municipality, or special district that adopted the ordinance, rule, or regulation that it intends to submit a copy of the ordinance, rule, or regulation to the Legislature for

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30 ~~its nullification within a specified period, subject~~
31 to certain requirements; requiring the local
32 government to submit a copy of the ordinance, rule, or
33 regulation and a certain written explanation of how
34 the ordinance, rule, or regulation violates a
35 specified provision to the Legislature within a
36 specified period; providing that such submission is
37 void under certain circumstances; providing that the
38 ordinance, rule, or regulation is nullified and
39 repealed on the last day of the next regular session
40 if the Legislature does not ratify it on or before the
41 last day of that regular session; providing for
42 retroactive application; providing applicability;
43 providing an effective date.
44

45 WHEREAS, the Constitution of the State of Florida and the
46 Florida Statutes establish the authority of the Legislature to
47 define and fix the scope of the power of local government, and

48 WHEREAS, local governmental entities are given broad
49 authority to adopt ordinances relating to issues that include,
50 but are not limited to, zoning, local law enforcement, code
51 inspection and enforcement, alcoholic beverage regulations,
52 solid waste management, and finance and taxation as detailed in
53 general law, and

54 WHEREAS, it is in the best interest of this state to
55 protect and encourage the exercise of home rule power and local
56 authority on issues such as those described, and

57 WHEREAS, the increasingly interconnected nature of our
58 society and economy may result in local ordinances having a far-

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reaching impact beyond the locality where they are adopted, and

WHEREAS, some local ordinances are becoming increasingly burdensome and creating considerable and costly challenges to businesses, and

WHEREAS, local governmental entities should continue to enjoy the ability to govern their localities as they see fit; however, this exercise of authority at the local level should not be allowed to impede, unchecked, commerce, trade, and labor throughout the state outside the boundaries of the local governmental entities, and

WHEREAS, although the State of Florida has a vested interest in facilitating the strong and active governance of local governmental entities by their respective governing bodies, such governance should not impede or encroach on the self-governance of other local governmental entities or the orderly conduct of business throughout this state, and

WHEREAS, the Legislature hereby clarifies its authority with regard to the regulation of commerce, trade, and labor for the purpose of preserving the authority of each local governmental entity while encouraging efficiency and economic growth through the reduction of inconsistent and costly regulation, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 125.003, Florida Statutes, is created to read:

125.003 Regulation of commerce, trade, and labor;
preemption.-

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88 (1) (a) The state expressly preempts the regulation of
89 matters relating to commerce, trade, and labor under the
90 conditions set forth in this section.

91 (b) Unless otherwise expressly authorized by special or
92 general law, the legislative and governing body of a county may
93 not regulate commerce, trade, or labor by:

94 1. Banning the sale of a good or service;

95 2. Imposing a penalty on the sale of a good or service;

96 3. Requiring an employer to pay any or all of its employees
97 a wage rate not otherwise required under a special, general, or
98 federal law; or

99 4. Adopting an ordinance, rule, or regulation on commerce,
100 trade, or labor which:

101 a. Interferes with the regulation of commerce, trade, or
102 labor outside the territorial boundaries of the county; or

103 b. Has an adverse impact on economic growth; private sector
104 job creation or employment; private sector investment; business
105 competitiveness, including impeding the ability of persons doing
106 business in the county or state to compete with persons doing
107 business in other areas of the state or in other domestic
108 markets; productivity; or innovation within the county or
109 outside its territorial boundaries.

110 (c) An ordinance, rule, or regulation that violates this
111 subsection is null and void.

112 (2) Upon the affirmative vote of the governing body of a
113 local government that an ordinance, rule, or regulation of a
114 county violates subsection (1), the local government may seek to
115 nullify such ordinance, rule, or regulation. In order to begin
116 the process of nullification, the local government must notify

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the county in writing that the local government is initiating the process of nullification under this section. Such notification must include:

(a) A copy of the ordinance, rule, or regulation;

(b) A written explanation of how the ordinance, rule, or regulation violates subsection (1), including any adverse impact that the ordinance, rule, or regulation has on the local government or other area outside the territorial boundaries of the county; and

(c) A request to the county to repeal the specific ordinance, rule, or regulation or to amend it so that it does not violate subsection (1), specifically identifying the amendments needed to bring the ordinance, rule, or regulation into compliance.

(3) The county must respond in writing to the local government within 5 days after receipt of the notice, stating that the county:

(a) Is in receipt of the notice required under subsection (2); and

(b) Will review and respond with specificity to the notice within 30 days after receipt of the notice.

(4) Within 30 days after receipt of the notice required under subsection (2), the county shall respond to the local government in writing that it has reviewed the notice and the assertions of the local government regarding the ordinance, rule, or regulation that the local government asserts is in violation of subsection (1) and state whether the county:

(a) Intends to repeal the ordinance, rule, or regulation;

(b) Intends to amend the ordinance, rule, or regulation,

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including specifying the amendments that will be made to bring the ordinance, rule, or regulation into compliance with subsection (1); or

(c) Refuses to repeal or amend, stating with specificity the reasons why the county asserts the ordinance, rule, or regulation does not violate subsection (1).

(5) If the county refuses to repeal or amend the ordinance, rule, or regulation and the local government continues to assert the ordinance, rule, or regulation is in violation of subsection (1) and wishes to nullify the ordinance, rule, or regulation, the local government must, no later than 90 days before the next regular session of the Legislature:

(a) Notify, in writing, the county that adopted the ordinance, rule, or regulation that it intends to submit a copy of the ordinance, rule, or regulation to the Legislature for its nullification and include the materials provided in paragraphs (b) and (c) in such notification;

(b) Submit a copy of the ordinance, rule, or regulation to the President of the Senate and the Speaker of the House of Representatives; and

(c) Submit a written explanation of how the ordinance, rule, or regulation violates subsection (1), including any adverse impact that the ordinance, rule, or regulation has on the local government or other area outside the territorial boundaries of the county, to the President of the Senate and the Speaker of the House of Representatives.

(6) Failure to provide the required notice to the county before submission of the nullification request to the Legislature renders such submission void.

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(7) If the Legislature does not ratify the ordinance, rule, or regulation on or before the last day of the next regular session, it is nullified and repealed on the last day of that regular session.

(8) This section is retroactive to January 1, 2017; however, any ordinance, rule, regulation, or law enacted and made effective before January 1, 2017, which conflicts with this section prevails.

Section 2. Section 166.015, Florida Statutes, is created to read:

166.015 Regulation of commerce, trade, and labor; preemption.--

(1)(a) The state expressly preempts the regulation of matters relating to commerce, trade, and labor under the conditions set forth in this section.

(b) Unless otherwise expressly authorized by special or general law, the legislative and governing body of a municipality may not regulate commerce, trade, or labor by:

1. Banning the sale of a good or service;
2. Imposing a penalty on the sale of a good or service;
3. Requiring an employer to pay any or all of its employees a wage rate not otherwise required under a special, general, or federal law; or

4. Adopting an ordinance, rule, or regulation on commerce, trade, or labor which:

a. Interferes with the regulation of commerce, trade, or labor outside the territorial boundaries of the municipality; or

b. Has an adverse impact on economic growth; private sector job creation or employment; private sector investment; business

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204 competitiveness, including impeding the ability of persons doing
205 business in the municipality or state to compete with persons
206 doing business in other areas of the state or in other domestic
207 markets; productivity; or innovation within the municipality or
208 outside its territorial boundaries.

209 (c) An ordinance, rule, or regulation that violates this
210 subsection is null and void.

211 (2) Upon the affirmative vote of the governing body of a
212 local government that an ordinance, rule, or regulation of a
213 municipality violates subsection (1), the local government may
214 seek to nullify such ordinance, rule, or regulation. In order to
215 begin the process of nullification, the local government must
216 notify the municipality in writing that the local government is
217 initiating the process of nullification under this section. Such
218 notification must include:

219 (a) A copy of the ordinance, rule, or regulation;

220 (b) A written explanation of how the ordinance, rule, or
221 regulation violates subsection (1), including any adverse impact
222 that the ordinance, rule, or regulation has on the local
223 government or other area outside the territorial boundaries of
224 the municipality; and

225 (c) A request to the municipality to repeal the specific
226 ordinance, rule, or regulation or to amend it so that it does
227 not violate subsection (1), specifically identifying the
228 amendments needed to bring the ordinance, rule, or regulation
229 into compliance.

230 (3) The municipality must respond in writing to the local
231 government within 5 days after receipt of the notice, stating
232 that the municipality:

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233 (a) Is in receipt of the notice required under subsection
234 (2); and

235 (b) Will review and respond with specificity to the notice
236 within 30 days after receipt of the notice.

237 (4) Within 30 days after receipt of the notice required
238 under subsection (2), the municipality shall respond to the
239 local government in writing that it has reviewed the notice and
240 the assertions of the local government regarding the ordinance,
241 rule, or regulation that the local government asserts is in
242 violation of subsection (1) and state whether the municipality:

243 (a) Intends to repeal the ordinance, rule, or regulation;

244 (b) Intends to amend the ordinance, rule, or regulation,
245 including specifying the amendments that will be made to bring
246 the ordinance, rule, or regulation into compliance with
247 subsection (1); or

248 (c) Refuses to repeal or amend, stating with specificity
249 the reasons why the municipality asserts the ordinance, rule, or
250 regulation does not violate subsection (1).

251 (5) If the municipality refuses to repeal or amend the
252 ordinance, rule, or regulation and the local government
253 continues to assert the ordinance, rule, or regulation is in
254 violation of subsection (1) and wishes to nullify the ordinance,
255 rule, or regulation, the local government must, no later than 90
256 days before the next regular session of the Legislature:

257 (a) Notify, in writing, the municipality that adopted the
258 ordinance, rule, or regulation that it intends to submit a copy
259 of the ordinance, rule, or regulation to the Legislature for its
260 nullification and include the materials provided in paragraphs
261 (b) and (c) in such notification;

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262 (b) Submit a copy of the ordinance, rule, or regulation to
263 the President of the Senate and the Speaker of the House of
264 Representatives; and

265 (c) Submit a written explanation of how the ordinance,
266 rule, or regulation violates subsection (1), including any
267 adverse impact that the ordinance, rule, or regulation has on
268 the local government or other area outside the territorial
269 boundaries of the municipality, to the President of the Senate
270 and the Speaker of the House of Representatives.

271 (6) Failure to provide the required notice to the
272 municipality before submission of the nullification request to
273 the Legislature renders such submission void.

274 (7) If the Legislature does not ratify the ordinance, rule,
275 or regulation on or before the last day of the next regular
276 session, it is nullified and repealed on the last day of that
277 regular session.

278 (8) This section is retroactive to January 1, 2017;
279 however, any ordinance, rule, regulation, or law enacted and
280 made effective before January 1, 2017, which conflicts with this
281 section prevails.

282 Section 3. Section 189.0125, Florida Statutes, is created
283 to read:

284 189.0125 Regulation of commerce, trade, and labor;
285 preemption.-

286 (1)(a) The state expressly preempts the regulation of
287 matters relating to commerce, trade, and labor under the
288 conditions set forth in this section.

289 (b) Unless otherwise expressly authorized by special or
290 general law, the legislative and governing body of a special

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291 district may not regulate commerce, trade, or labor by:

292 1. Banning the sale of a good or service;

293 2. Imposing a penalty on the sale of a good or service;

294 3. Requiring an employer to pay any or all of its employees
295 a wage rate not otherwise required under a special, general, or
296 federal law; or

297 4. Adopting an ordinance, rule, or regulation on commerce,
298 trade, or labor which:

299 a. Interferes with the regulation of commerce, trade, or
300 labor outside the territorial boundaries of the special
301 district; or

302 b. Has an adverse impact on economic growth; private sector
303 job creation or employment; private sector investment; business
304 competitiveness, including impeding the ability of persons doing
305 business in the special district or state to compete with
306 persons doing business in other areas of the state or in other
307 domestic markets; productivity; or innovation within the special
308 district or outside its territorial boundaries.

309 (c) An ordinance, rule, or regulation that violates this
310 subsection is null and void.

311 (2) Upon the affirmative vote of the governing body of a
312 local government that an ordinance, rule, or regulation of a
313 special district violates subsection (1), the local government
314 may seek to nullify such ordinance, rule, or regulation. In
315 order to begin the process of nullification, the local
316 government must notify the special district in writing that the
317 local government is initiating the process of nullification
318 under this section. Such notification must include:

319 (a) A copy of the ordinance, rule, or regulation;

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(b) A written explanation of how the ordinance, rule, or regulation violates subsection (1), including any adverse impact that the ordinance, rule, or regulation has on the local government or other area outside the territorial boundaries of the special district; and

(c) A request to the special district to repeal the specific ordinance, rule, or regulation or to amend it so that it does not violate subsection (1), specifically identifying the amendments needed to bring the ordinance, rule, or regulation into compliance.

(3) The special district must respond in writing to the local government within 5 days after receipt of the notice, stating that the special district:

(a) Is in receipt of the notice required under subsection (2); and

(b) Will review and respond with specificity to the notice within 30 days after receipt of the notice.

(4) Within 30 days after receipt of the notice required under subsection (2), the special district shall respond to the local government in writing that it has reviewed the notice and the assertions of the local government regarding the ordinance, rule, or regulation that the local government asserts is in violation of subsection (1) and state whether the special district:

(a) Intends to repeal the ordinance, rule, or regulation;

(b) Intends to amend the ordinance, rule, or regulation, including specifying the amendments that will be made to bring the ordinance, rule, or regulation into compliance with subsection (1); or

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349 (c) Refuses to repeal or amend, stating with specificity
350 the reasons why the special district asserts the ordinance,
351 rule, or regulation does not violate subsection (1).

352 (5) If the special district refuses to repeal or amend the
353 ordinance, rule, or regulation and the local government
354 continues to assert the ordinance, rule, or regulation is in
355 violation of subsection (1) and wishes to nullify the ordinance,
356 rule, or regulation, the local government must, no later than 90
357 days before the next regular session of the Legislature:

358 (a) Notify, in writing, the special district that adopted
359 the ordinance, rule, or regulation that it intends to submit a
360 copy of the ordinance, rule, or regulation to the Legislature
361 for its nullification and include the materials provided in
362 paragraphs (b) and (c) in such notification;

363 (b) Submit a copy of the ordinance, rule, or regulation to
364 the President of the Senate and the Speaker of the House of
365 Representatives; and

366 (c) Submit a written explanation of how the ordinance,
367 rule, or regulation violates subsection (1), including any
368 adverse impact that the ordinance, rule, or regulation has on
369 the local government or other area outside the territorial
370 boundaries of the special district, to the President of the
371 Senate and the Speaker of the House of Representatives.

372 (6) Failure to provide the required notice to the special
373 district before submission of the nullification request to the
374 Legislature renders such submission void.

375 (7) If the Legislature does not ratify the ordinance, rule,
376 or regulation on or before the last day of the next regular
377 session, it is nullified and repealed on the last day of that

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regular session.

(8) This section is retroactive to January 1, 2017;
however, any ordinance, rule, regulation, or law enacted and
made effective before January 1, 2017, which conflicts with this
section prevails.

Section 4. This act shall take effect upon becoming a law.