



## ***BILL SUMMARY***

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# **Preemption of Local Ordinances on Minimum Wage, Products and Civil Rights, HF 295**

March 3, 2017

Status of Bill: On House Floor, 12-9  
Committee: Local Government  
Lead Democrats: Representative Meyer  
Floor Manager: Representative Landon  
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### **Bill Summary:**

#### **Civil Rights**

Iowa Civil Rights chapter 216 currently allows for local control greater than the provisions of the chapter, and nothing is to be construed to allow this. The following provisions in the civil rights chapter 216 related to local control are eliminated in the bill:

1. Iowa law's inclusion of local laws not inconsistent with chapter 216.
2. Limiting a city or local government from enacting any ordinance or other law which prohibits broader or different categories of unfair or discriminatory practices.

The specific example related to the "necessity" of this provision was that Iowa cities have passed ordinances that provide greater protections for housing. Iowa City added an amendment to the city's Human Rights Ordinance that bans landlords and property managers from refusing to rent to people solely on the reason that the person is on a low-income assistance program like Section 8 (the related federal provision of the federal housing act). The city's fair housing laws already protect from discrimination against those on public assistance, but the amendment expands that to include Housing Choice Vouchers. The city of Marion had previously taken similar action, and ban landlords from specifically discriminating against voucher holders. The city of Davenport expands civil rights protections for age for housing and public accommodations, familial status for employment and public accommodations, material status for employment, housing, and public accommodations, and finally, mental disability for available credit. Dubuque also has age protections for housing and public accommodations.

However, the provision in the bill that strikes these civil rights sections would also prevent a local government from enacting broader categories of civil rights protections in the future. So, if the Legislature were to take away some current civil rights protections in state law, a local government, under this bill, could not put those protections back in.

#### **County and City Preemption on Employment**

Since January 1, 2008, when Democrats were in control of the Legislature and enacted a law in 2007, the minimum wage has been set in Iowa at \$7.25 per hour. Congressional and Legislative inaction have kept it at that level while every Iowa surrounding state but Wisconsin and a total of 29 states and D.C. have raised their minimum wage above the federal level. Now, four counties have increased their minimum wage above that level.

The bill prohibits a city or county from adopting an ordinance, motion, resolution, or amendment providing for any terms or conditions of employment that exceed or conflict with federal or state law requirements relating to

minimum or living wage rate, any form of employment leave, hiring practices, employment benefits, scheduling practices, or other terms or conditions of employment. Such an action adopted prior to the effective date of the bill is void and unenforceable on and after the effective date.

### **Current Information on County Minimum Wages that Would be Preempted**

Four Iowa counties have adopted ordinances to raise the minimum wage within their jurisdiction. In each case the minimum wage is applicable in the unincorporated area of the county and within the incorporated areas where there is not a conflicting ordinance. In addition to the counties that have already raised the minimum wage, Lee County has assembled a task force to study the issue. On two occasions the Woodbury County Board of Supervisors has entertained a motion to create a study committee but both times the motion was defeated. Undoubtedly discussions are taking place in supervisor boardrooms across the state, a trend that will very likely continue. Below are details from the four counties that have adopted ordinances to raise the minimum wage in their jurisdiction. This would not be enforced by state law, but the local county attorney.

#### **Johnson County**

Date of Adoption: 09/10/2015

Minimum Wage Increases:

- 11/01/2015 - \$8.20 per hour
- 05/01/2016 - \$9.15 per hour
- 01/01/2017 - \$10.10 per hour

On July 1, 2018, and each subsequent July 1, the minimum wage will increase by the same percentage as the increase in the previous calendar year's Consumer Price Index.

#### **Linn County**

Date of Adoption: 09/12/2016

Minimum Wage Increases:

- 01/01/2017 - \$8.25 per hour
- 01/01/2018 - \$9.25 per hour
- 01/01/2019 - \$10.25 per hour

#### **Wapello County**

Date of Adoption: 09/13/2016

Minimum Wage Increases:

- 01/01/2017 - \$8.20 per hour
- 01/01/2018 - \$9.15 per hour
- 01/01/2019 - \$10.10 per hour

On July 1, 2019, and each subsequent July 1, the minimum wage will increase by the same percentage as the increase in the previous calendar year's Consumer Price Index.

#### **Polk County**

Date of Adoption: 10/11/2016

Minimum Wage Increases:

- 04/01/2017 - \$8.75 per hour
- 01/01/2018 - \$9.75 per hour
- 01/01/2019 - \$10.75 per hour

On July 1, 2020, and each subsequent July 1, the minimum wage will increase by the same percentage as the increase in the previous calendar year's Consumer Price Index. Employers have to pay the Polk County minimum wage level even if workers have duties in several counties. The minimum wage for employees under the age of 18 is set at 85% of the Polk County minimum wage. In addition, Polk County's tipped-worker minimum wage is at \$5 per hour rather than the state law rate of 60% of the overall state minimum wage (\$4.35 per hour). If the 60% state provision were applied to next Polk County increase, \$8.75 per hour, it would equal \$5.25 per hour.

(Source: Iowa Association of Counties Background Information)

## **Local Cities that have Opted Out of County Provisions**

**Johnson County:** Within Johnson County, the cities of Oxford, Solon, Shueyville, and Swisher have opted out of the county minimum wage increase. Tiffin has passed a separate ordinance establishing a \$9 per hour minimum wage. This is lower than the current Johnson County level of \$10.10 per hour.

The spokesperson for the University of Iowa is claiming that as a state agency, they are not bound by the county's ordinance. They did confirm that there are 2,685 university employees making less than May 2016 increase to \$9.15 per hour. All but 39 of those employees are students.

### **Linn County**

Cities in Linn County that have opted out of the county wage increase include Robins, Ely, Center Point and Prairieburg.

### **Wapello County**

In Wapello County, the cities of Ottumwa, Agency and Eddyville have all opted out of the county wage increase.

### **Polk County**

No known cities in Polk County have opted out of the Polk County minimum wage increase, but the first increase is not slated to take effect until April 1, 2017.

## **Other Information on Wage Increase Implications**

Wapello County's poverty rate ranks third in the state of all Iowa Counties. The county's per-capita income is the 2<sup>nd</sup> lowest in the state at \$21,909.

According to the Iowa Public Policy Project, based on their research of the American Community Survey by the Economic Policy Institute, about 65,000 workers in Polk, Linn and Johnson counties already benefit from an increase in their hourly wage to more than \$10.00, or will in the next two years. Another 20,000 or more will benefit indirectly.

## **County and City Preemption on Product Ban**

The bill prohibits a city or county from adopting an ordinance, motion, resolution, or amendment that sets standards or requirements regarding the sale or marketing of consumer merchandise that are different from, or any requirement established by state law. Such an action adopted prior to the effective date of the bill is void and unenforceable on and after the effective date.

### **"Consumer merchandise"**

Defined as merchandise offered for sale or lease for personal, family or household purposes including a container for consuming, carrying or transporting merchandise.

### **"Container"**

Defined as bag, cup, package, container, bottle, or other packaging that includes:

1. Reusable or single-use.
2. Made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass or postconsumer recycled or similar material or substrates, including coated, laminated or multilayer substrates.
3. Designed for consuming, transporting, or protecting merchandise, food or beverage from or at food service facility.

Dubuque officials are currently considering a ban or a surcharge on plastic shopping bags to encourage the use of reusable bags or more biodegradable products after a group of Loras College honor students asked officials in November to consider imposing a 5- to 10-cent fee on the use of plastic checkout bags. The students felt that

this is an environmental issue, arguing the non-biodegradable, oil-based products pile up in landfills and waterways, presenting a health concern and threat to wildlife.

### **Other States or Cities on Product Bans and Preemptions**

According to the National Conference of State Legislatures (NCSL), in August 2014, California became the first state to enact legislation imposing a statewide ban on single-use plastic bags at large retail stores. Hawaii has a de facto statewide ban as all of its most populous counties prohibit non-biodegradable plastic bags at checkout, as well as paper bags containing less than 40% recycled material. The District of Columbia has a law that bans the distribution of disposable, non-recyclable plastic carry-out bags and set a fee of five cents for distribution of all other disposable bags.

Cities with plastic bag fees include Austin TX, Cambridge, MA, Chicago IL, Seattle, WA, Los Angeles and San Francisco, CA. Cities or counties with plastic bans include Boulder, CO, Brownsville, TX, Montgomery County, MD, New York, NY, Portland, ME, and Washington D.C.

Missouri, Idaho and Arizona have enacted preemption bills. Missouri's preemption law is limited to imposing a ban, fee or tax upon the use of either paper or plastic bags only, whereas Idaho and Arizona includes containers similar to the Iowa bill. This bill would match Arizona, which is the most restrictive in the country.

### **Enactment**

The bill takes effect upon enactment.