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Labor and Employment Alert: Iowa and South Carolina Join the Trend in Preempting Local Wage-Hour Laws

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All politics is local.

~ Former U.S. House of Representatives Speaker Thomas "Tip" O'Neill

Spurred by the "Fight for \$15" slogan, cities and counties throughout the United States have enacted laws to increase the minimum wage paid to employees within their jurisdictions. Local laws may also mandate that employers provide employees with paid sick leave, regular schedules, or additional hours and benefits for part-time employees. These local minimum wages exceed the federal minimum wage, and, in most cases, exceed that of the state in which the city or county is located. Similarly, the paid sick leave and predictive scheduling mandates have no counterpart in federal law. Authority for enacting local wage-hour legislation may come from a state's constitution or statutes or the city or county charter or enabling legislation.

In response, 17 states (Alabama, Arizona, Florida, Georgia, Indiana, Kansas, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, Oregon, Tennessee, and Wisconsin), have enacted laws to preempt cities from enacting their own minimum wage and/or other wage-hour legislation aimed at private employers. Recently, Iowa and South Carolina joined in on the trend.

Iowa House File 295

Effective March 30, 2017, Iowa law prohibits counties and cities from adopting, enforcing, or administering an ordinance providing for any terms or conditions of employment that exceed or conflict with the requirements of federal or state law relating to a minimum or living wage rate, any form of employment leave, hiring practices, employment benefits, scheduling practices, or other terms or conditions of employment. An ordinance, motion, resolution, or amendment adopted before law's effective date that violates these provisions is void and unenforceable on and after the effective date.

Several Iowa counties already have a minimum wage that exceeds the federal minimum wage of \$7.25 per hour. Johnson County, for example, has a \$10.10 per hour minimum wage. Not only does the new Iowa law prohibit counties and cities from enacting a higher minimum wage in the future, but it rolls back higher minimum wage already in effect to \$7.25.

South Carolina Senate Bill 218

Effective April 5, 2017, South Carolina law prohibits cities, counties, school districts, special purpose districts, and public service districts from establishing, mandating, or otherwise requiring an employee benefit. "Employee benefit" is broadly defined to include anything of value that an employee may receive from an employer in addition to wages such as: health benefits, disability benefits, death benefits, group accidental death and dismemberment benefits, paid days off for holidays, paid sick leave, paid vacation leave, paid personal necessity leave, retirement benefits, and profit-sharing benefits. Political subdivisions may still establish employee benefits in employment relationships to which they are a party.

These new laws highlight the growing complexity for employers who operate in multiple jurisdictions. Multiple states, cities, or counties may require a higher minimum wage or impose other wage-hour requirements on private employers, while these requirements may be limited or prohibited in other jurisdictions. Contact your Vorys lawyer if you have questions about wage-hour compliance.