

By Senator Passidomo

28-00294C-17

20171158__

1 A bill to be entitled
2 An act relating to regulation of commerce, trade, and
3 labor; creating ss. 125.003, 166.015, and 189.0125,
4 F.S.; reserving to the state the exclusive right to
5 regulate matters of commerce, trade, and labor under
6 certain circumstances; prohibiting counties,
7 municipalities, and special districts from engaging in
8 specified actions that regulate commerce, trade, or
9 labor, unless otherwise expressly authorized to do so
10 by special or general law; providing that an
11 ordinance, rule, or regulation that violates a
12 specified provision is null and void; authorizing a
13 local government to seek nullification of an
14 ordinance, rule, or regulation of another county,
15 municipality, or special district upon the affirmative
16 vote of the governing body of the local government
17 that the ordinance, rule, or regulation violates a
18 specified provision; requiring the local government to
19 notify the county, municipality, or special district
20 that the local government is initiating the process of
21 nullification; specifying requirements for such
22 notification; requiring the county, municipality, or
23 special district to provide certain responses to the
24 local government within specified periods, subject to
25 certain requirements; requiring the local government
26 to notify the county, municipality, or special
27 district that adopted the ordinance, rule, or
28 regulation that it intends to submit a copy of the
29 ordinance, rule, or regulation to the Legislature for

28-00294C-17

20171158__

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39 repealed on the last day of the next regular session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-

28-00294C-17

20171158__

59 reaching impact beyond the locality where they are adopted, and

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

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

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

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

81

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

83

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

86 125.003 Regulation of commerce, trade, and labor;
87 preemption.-

28-00294C-17

20171158__

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

28-00294C-17

20171158__

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

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

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

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

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

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

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

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

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

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

28-00294C-17

20171158__

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

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

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

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

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

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

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

28-00294C-17

20171158__

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

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

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

185 166.015 Regulation of commerce, trade, and labor;
186 preemption.—

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

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

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

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

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

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

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

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

28-00294C-17

20171158__

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:

28-00294C-17

20171158__

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;

28-00294C-17

20171158__

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

28-00294C-17

20171158__

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;

28-00294C-17

20171158__

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

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

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

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

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

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

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

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

28-00294C-17

20171158__

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

28-00294C-17

20171158__

378 regular session.

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

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