

Preemption of Local Regulations (Oppose – Mandate and Preemption)

by Holly McPhail | Mar 08, 2019

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CS/HB 3 (Grant, M.) and SB 1748 (Perry) expressly preempts the regulation and licensing of occupations and professions to the state and prohibits the enforcement of any regulation of a business unless the regulation is expressly authorized by general law or adopted pursuant to the new requirements imposed by the bill. “Business” is defined broadly to include any activity regularly engaged in by any person for public or private gain, benefit or advantage, including goods and services and business entities. “Regulation” is defined broadly to include virtually any action taken by local government, including even “fees”, “pronouncements” and “guidelines”. The term appears to include regulations directed specifically at business activity (e.g., adult entertainment ordinances) as well as regulations directed at all persons generally (e.g., noise ordinances). Contracts, permits, approvals and home rule revenue sources appear to fall within the definition of “regulation” as defined in the bill.

The bills prohibit local governments from taking “new” actions affecting business after July 1, 2019, unless the local government has:

- Made public findings that: the action is necessary to protect public health, safety and welfare; the action is performed in a manner that does not unnecessarily restrict entry into the business; and the action is performed in the least restrictive and cost-effective manner;
- Required the action sunset in two years;
- Passed the action by two-thirds vote of its membership except for zoning regulations, regulations that increase building costs by less than \$750, nuisance ordinances and ordinances related to alcohol and tobacco;
- Published a “Statement of Estimated Regulatory Costs” 14 days prior to any vote on the action and determined the regulatory costs on business could not be reduced by adoption of a less costly alternative.

Regulations expressly authorized by general law are exempt from these new requirements. The Statements of Estimated Regulatory Costs required by the bill must contain a detailed analyses of a regulation’s anticipated impacts to business and consumers, including the anticipated costs, methods of financing, resources needed for implementation and enforcement, fees needed to cover anticipated costs, impacts to small business, impacts on business competitiveness (including the ability of affected persons to compete with persons doing business in other markets), impacts on economic growth and job creation, and transactional costs likely to be incurred by businesses required to comply.

CS/HB 3 sunsets existing regulations affecting business on July 2021. Such regulations may be readopted only upon meeting the requirements of the bill. ([O’Hara/Cruz](#))