

Arizona Court of Appeals Strikes Down Law Restricting Local Governments From Requiring Private Employers To Provide Benefits That Exceed State Law Requirements (US)

Monday, February 11, 2019

In 2006, Arizona voters approved a ballot measure which resulted in the passage of the Arizona Minimum Wage Act and established a state-wide minimum wage (currently \$11.00/hour). This law also permitted individual Arizona counties, cities, and towns to regulate both the minimum wage and the employee benefits to be provided by private employers located within their geographic boundaries. That meant that local governments could establish a minimum wage higher (but not lower) than the statewide minimum wage to apply in their specific jurisdiction, as well as require employers to provide more generous employee benefits than state law requires.

Fast forward ten years. In 2016, the Arizona legislature passed House Bill 2579, which amended Arizona law to remove from counties, cities, and towns the authority to pass local ordinances or regulations concerning *non-wage* employee benefits, which the bill defined to include items such as sick pay, vacation pay, severance pay, commissions, bonuses, retirement, and pension plan contributions, and child day care plans. The law declared these non-wage benefits to be a matter of statewide concern and, therefore, any local laws regulating them were preempted by state law. The impact of this was that local governments could no longer require private employers located in their geographic boundaries to provide benefits greater than those required by applicable state law. Various groups, including a labor union, city councilmembers, and legislators opposed to the law, filed suit alleging that H.B. 2579 was unconstitutional because its effect was to repeal portions of the Arizona Minimum Wage Act in violation of Arizona's Voter Protection Act, which expressly forbids the legislature from repealing or superseding voter-approved measures and only allows amendments that further the purposes of such initiatives.

On February 5, 2019, the Arizona Court of Appeals sided with the plaintiffs, holding in [Meyer, et al. v. Arizona](#) that H.B. 2579 indeed violated the Voter Protection Act. Because H.B. 2579 did not explicitly state that its purpose was to repeal or supersede the Minimum Wage Act, the court explained that it had to determine whether the two laws could be harmonized, or if H.B. 2579 impliedly (and therefore impermissibly) amended the Act. The State argued that the Minimum Wage Act does not apply to non-wage employee benefits and therefore does not authorize cities, counties, and towns to independently regulate those benefits. Conversely, the plaintiffs argued that, on its face, the Minimum Wage Act granted municipalities the right to regulate *benefits*, and that the Act did not distinguish between wage-related and non-wage benefits. Accordingly, the court's analysis hinged on the meaning of the word "benefits," as used in the Minimum Wage Act.

The court held that the meaning of the term "benefits" could be discerned from the plain text of the statute and therefore was not ambiguous. The court reasoned that because the Minimum Wage Act specifically empowered municipalities to regulate benefits, and H.B. 2579 explicitly prohibited what the Minimum Wage Act permits, the statutes could not be harmonized. Therefore, the court held that H.B. 2579 unconstitutionally violated the Voter Protection Act.

This decision reaffirms the right of units of local Arizona government to address the needs of their citizens more

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directly and allows local legislators to be more responsive to their constituents. Notably, Arizona is not the only state grappling with preemption laws that impact the ability of municipalities to create more robust benefits for employees in their jurisdictions. Both Alabama and Florida have been navigating similar waters. The Eleventh Circuit Court of Appeals recently granted a rehearing in a case (*Lewis v. Gov. of Alabama*, No. 17-11009) involving an Alabama law that allegedly blocks citywide minimum wages for racially motivated reasons. Further, on the same day the Arizona Court of Appeals decided *Meyer*, the Florida Supreme Court declined to review a state court of appeals decision (*City of Miami Beach v. Fla. Retail Federation, Fla.*, No. SC17-2284) ruling that a city's minimum-wage ordinance was preempted by a state statute.

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