



the work and family legal center

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Analysis of SB 814

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There are efforts all over the country to strip local governments of their home rule powers to legislate for the good of the people who live there. Those efforts are being led by corporate special interests attempting to interfere in basic democratic process and stop the people of a local community from passing their own laws related to working standards in **their** own communities. These efforts have no place here in Oregon where home rule has always been respected.

Senate Bill 814 is a blank check that wipes out the ability of localities to legislate on ANY issues that have anything to do with workers, even if the state has not legislated on the issue. In addition, SB 814 will have several unintended consequences. These issues are outlined more specifically below.

SB 814 Is Contrary to Oregon’s Strong Home Rule Tradition. Since 1906 municipalities in Oregon have had home rule authority derived directly from Article XI, section 2 of the Oregon constitution, which states that:

The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation for any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State of Oregon... OR. CONST. ART. XI, § 2.

Prior to passage of the Home Rule Amendment in 1906, cities had to seek approval from the state legislature to make changes to their city charters. City authority was uncertain because even if a municipal charter claimed broad powers, the state could sweep in and limit those powers. The Home Rule Amendment sought to strengthen municipal autonomy by preventing state meddling with municipal authority. As the People’s Power League Leader at the time said, the intent of the amendment was “to leave the people of cities as nearly possible wholly free from interference by the Legislature in their purely local city legislation, except as it might affect the criminal laws of the state.” TOLLENAAR AND ASSOC., COUNTY HOME RULE IN OREGON, 74 (June 2005), available at <http://www.aocweb.org/aoc/default.aspx>.

According to the Oregon Supreme Court, “[i]t is indisputable that a city may enact

reasonable regulations to further its legitimate interest in maintaining public health, safety and welfare.” City of Eugene v. Miller, 871 P.2d 454, 491, n.12 (Or. 1994). Oregon cities have used this power to pass local legislation addressing public health and working conditions for public and private employees.

SB 814 would thwart this constitutional power of localities in a broad and unjustified way. Although the state has passed laws that limit municipal powers on occasion, those laws have always been specifically tailored to a specific issue or problem the state legislature has decided to address. We have been unable to find any example of legislation at the state level that since the constitutional amendment was passed that would withdraw power from localities in such a sweeping manner.

Possible Unintended Consequences of SB 814:

Support for national corporations at the expense of local mom and pop stores.

The ability to set higher requirements for wages, hours, and working conditions has been an effective way for many local jurisdictions to limit large corporations like Walmart from overwhelming local businesses. This bill would make it impossible for localities to pass any such protections for their mom and pop stores. Similarly, the bill could mean that a local government can't offer tax incentives to small employers who offer good benefits, another way of helping local small business compete with mega-stores. As the national movement is fueled by associations that support large national businesses, it is important to realize that these limitations on local control are a way to help the Walmarts of the country at the expense of our small businesses.

Restriction of the ability of localities to control employment standards for contractors will hamper localities ability to do the work they need. Although SB 814 allows a local jurisdiction to set employment standards for its own employees, it does not allow it any say over the employment standards for independent contractors that it wants to hire. This is a gross interference with local power and ability to control the workers doing the work of the locality. Local rules as requiring contractors to set minimum standards for their workers would be outlawed by SB 814.

There might be Federal contract priorities that would rely on insuring that contractors provide certain wages or benefits. Federal funds can be given based on conditions with respect to how contractors treat their workers. Federal contracts can also be given based on a number of factors that include such things as employee wages and benefits. This restriction in SB 814 could hurt localities trying to access federal funds.

The bill could jeopardize “Community Benefit Agreements” (CBAs) in every city and county in the state. These often require expanded opportunities for certified

MWESB firms, job training programs and grants for pre-apprenticeship programs targeting women and minorities. These workforce development programs would be precluded by SB 814.

Localities would be precluded from enacting “Transit Benefit Ordinances” to encourage the use of public transportation and reduce road congestion. Both employers and employees can enjoy significant tax savings through transit benefit programs. As a result, localities across the nation are beginning to consider “transit benefit ordinances” to require employers to take advantage of this tax off-set and require they offer a transit incentive to their employees. Employers in Oregon can qualify for both the federal credit and a Business Energy Tax Credit offered through Business Oregon, which means this may be an attractive option for cities looking to reduce congestion.

A large range of good laws that give special protection to workers with disabilities or pregnant workers, victims of crimes or those serving on juries would be outlawed. Many localities have required special accommodations or time off to workers with disabilities, pregnant workers or victims of crimes or mandated time off or pay for jurors. These are “employment benefits” and it is fairly clear these types of accommodations, pay or time off would be outlawed by SB 814.

SB 814 sets a dangerous and unclear precedent for local jurisdictions in Oregon. As outlined, there could be many unintended consequences of such a broad preemption on local government.

The National Context of Local Interference Bills

It’s important to realize that frustration of local government power is a national movement to take away rights of localities. Local governments are on the frontlines in the fight to protect public health and safety and set modern workplace standards. Under their police power, recognized strongly in Oregon towns, cities, and counties are acting on their own initiative to originate and strengthen laws that protect public health, help workers and their families and promote their community’s best interests. In response, some industries and their lobbies are pushing local interference laws to stop local action they disagree with. These bills are an attempt by corporate special interests to interfere in the democratic process and stop the people of a local community from passing their own laws, a move that has no place in Oregon. Local governments need to be able to create solutions to problems in their communities. They should be allowed to create new laws or build and improve upon minimum standards set by state law if they see fit. Local laws still need to go through the political process but they do so closer to the people they are serving, something that is truly part of our democracy. When local governments pass laws that are protective of their citizens and workers, they are not grabbing power from the state but just legislating where it makes sense for the values and needs of local communities. This local interference bill withdraws important power

from local government, power that Oregon as a strong home rule state has always seen as crucial for localities.