
Lesser-Known Employment Law Reform in HB2

BLOG | APRIL 8, 2016

As most readers are no doubt aware, the North Carolina General Assembly recently passed a bill that, among other things, supersedes local anti-discrimination ordinances. The Public Facilities Privacy and Security Act, more commonly known as HB2, also regulates single-sex, multi-occupancy bathrooms and changing rooms, requiring individuals to use facilities that align with their biological sex, regardless of gender identity.

These provisions have sparked significant controversy. Within a week of HB2 being signed into law by Governor McCrory, the American Civil Liberties Union and other civil rights groups filed a lawsuit in federal court challenging some aspects of the law as unconstitutional.

However, HB2 does more than regulate bathrooms. Although not as widely debated in the media, two key provisions affect both employers and workers in the state.

First, the law adds a subsection to the North Carolina Wage and Hour Act preventing any city, county, or “other political subdivision of the State” from “impos[ing] any requirement upon an employer pertaining to compensation of employees, such as the wage levels of employees, hours of labor, payment of earned wages, benefits, leave or well-being of minors in the workforce.” Thus, the General Assembly has taken a preemptive strike against potential efforts by city governments to raise the minimum wage, as seen in Los Angeles and other cities throughout the country.

Second, the law amends the North Carolina Equal Employment Practices Act to state: “This Article does not create, and shall not be construed to create or support, a statutory or common law private right of action, and no person may bring any civil action based upon the public policy expressed herein.” As explained in more detail by David Donovan at North Carolina Lawyers Weekly, this provision may effectively force workers with employment discrimination claims into the more rigid and obstacle-laden jurisdiction of federal courts.

The portions of HB2 regulating bathroom use and anti-discrimination ordinances have rightly received a great deal of scrutiny, but the lesser-known changes to the state’s employment law could ultimately prove just as impactful.

About the author: Jonathan Crook practices on the firm’s litigation team. He focuses on employment law, insurance coverage analysis, and business litigation. Please contact him if you have questions or would like to discuss further.

CONTACT US

Phone: 919-782-6860

Fax: 919-782-6753

OFFICE

Young Moore and Henderson, P.A.

3101 Glenwood Ave. Suite 200

Raleigh, N.C. 27612

MAILING ADDRESS

Young Moore and Henderson, P.A.

P.O. Box 31627

Raleigh, N.C. 27622-1627