



April 30, 2021

To: Sen. Craig Hickman and Rep. Michael Sylvester, co-chairs  
Members, Committee on Labor & Housing

From: David R. Clough – Maine State Director

Re: LD 1453 – An Act To Protect Small Employers by Prohibiting Municipalities from Adopting Ordinances Regarding Employee Work Benefits Other Than Ordinances Regarding Minimum Wage Rates

This statement in [support of LD 1453](#) is on behalf of the nearly 3,000 small business owners in Maine who are members of the National Federation of Independent Business. NFIB member businesses are located throughout Maine and collectively span a wide range of economic activities. The typical member has fewer than 10 employees.

LD 1453 recognizes that small employers would be adversely impacted by a patchwork of federal, state and local labor laws that may or may not overlap. There are at least two basic ways a small business could be harmed. First, a local labor ordinance adds to compliance complexity. Added complexity is a particular burden for small employers because they typically do not have a human resource professional or other staff capability with which to sort out what is required and how to comply without making mistakes. The chance of making mistakes increases if the small business has more than one location, with each local regulated by separate and distinct municipal labor ordinances.

Second, a local labor ordinance may create a cost that places the small business at a disadvantage vis-à-vis larger competitors, because the small business does not have the same flexibility of a larger business to buffer the added cost of a local labor ordinance.

Both of these effects – complexity and cost – can occur whether the ordinance regulates a wage rate or an employee benefit.

Objections to legislation such as LD 1453 typically center on Municipal Home Rule. However, the Home Rule concept does not envision that municipalities would act as additional legislative bodies on any labor matter not preempted by federal or Maine law. The Maine Municipal Association describes Home Rule as the ability to control barking dogs, regulation of adult businesses, regulation of signs, control of a town's growth, review of development projects, banning of herbicide spraying or regulation of timber harvesting. MMA does not describe Home Rule as the ability to impose requirements related to labor matters generally.

However, without guidance from the State of Maine, municipal Home Rule could be used to impose new or greater obligations on local employers regarding various existing or envisioned labor laws. By using Home Rule authority, municipalities could impose varying standards for lunch breaks, for example, even though lunch breaks are not uniquely municipal in character.

The problems and concerns of municipal ordinances regulating private sector workplaces, compensation and benefits become more troubling when the ordinance is adopted by referendum – mass appeal – rather than through the deliberative process of a city or town council.

We are under no illusion that this committee or this legislature is prepared to tackle future problems of unfettered exercise of Home Rule. However, unless and until action is taken to set guardrails in the area of labor law matters, we will see over time a growing number of local labor ordinances that go beyond Maine or federal law or impose on employers in ways the Maine legislature has decided against.

Unlike “don’t fix unless broken,” LD 1453 proposes tackling a situation before it is broken in order to avoid the economic and political fallout of waiting until potentially irreversible damage is done. We believe a Fix It Now instead of Fix It Later approach is a proactive and prudent approach.

Thank you for considering the interests of small business owners. We urge your support of LD 1453.