

violation by an employer, which must be brought no later than 3 years after the cause of action accrues.

SB 35 HCS 1 would have little or no fiscal impact on local governments.

The Kentucky League of Cities believes SB 35 HCS 1 would have no fiscal impact on city governments. Some establishments that might qualify to exempt workers under this legislation include city-owned golf courses, water parks, public pools, parks, and large recreational fields/centers. Most public pools and water parks already qualify for the exemption because they don't operate for more than 7 months of the year; most of the other listed city-owned establishments would qualify for the exemption under the average receipts provision of the bill. However, most cities already take advantage of this exemption under the federal FLSA. SB 35 HCS 1 would just codify a current federal FLSA provision into Kentucky statutes, resulting in no impact for cities. It is likely the impact would be the same for Kentucky counties. Establishing a time limit on the right to bring a cause of action against an employer for violations of Kentucky's wage and hour laws could result in some indeterminable savings to local government employers if a worker is foreclosed from bringing an action after 2 years, or after 3 years in the case of a willful violation. The statute of limitations could result in avoidance of litigation costs, liability, and payment of damages.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The local mandate statement, and fiscal impact on local governments, for SB 35 HCS 1 is the same as for SB 35 GA, with the exception that SB 35 HCS 1 adds a 2 or 3 year statute of limitations on bringing a claim for a violation.

SB 35 as introduced would amend KRS 337.010 to exclude from the definition of "employee" an employee of an amusement or recreational establishment that met the criteria described in Part II, (1) and (2), above, thereby exempting those workers from the requirement that "employees" receive time and ½ for overtime. SB 35 GA achieves the same goal without changing the definition of "employee." The GA version deleted all the original language and would not change the definition of the term "employee," but would instead insert the same criteria provision (facility not open more than 7 months in a year or receipts for 6 months not more than 1/3 of receipts for the other 6 months of the year) as new subparagraph (f) in KRS 337.285.

Data Source(s): Kentucky League of Cities; LRC staff

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