## Local Government Mandate Statement Kentucky Legislative Research Commission 2018 Regular Session

**Part I: Measure Information** 

Bill Request #: 420
Bill #: SB 35 GA
<b>Document ID #:</b> 3195
Bill Subject/Title: AN ACT relating to an exemption for wage and hours.
Sponsor: Senator John Schickel
Unit of Government: X City X County X Urban-County  Unified Local X Charter County X Consolidated Local X Government
Office(s) Impacted: Local governments that employ people to work in government-owned amusement or recreational establishments
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates Existing

## Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

SB 35 GA would amend KRS 337.285 to exempt certain employers from the obligation to pay employees time and ½ for hours worked over 40 in a week. Under the bill, amusement or recreational facility employers would not be required to pay their employees time and ½ if the facility (1) does not operate for more than 7 months in a calendar year, or (2) for the preceding year its average receipts for any 6 months of the year were not more than 33 1/3 of its average receipts for the other 6 months of the year. This language tracks that in the federal Fair Labor Standards Act ("FLSA"), at 29 U.S.C. 213(a)(3).

## SB 35 GA would have little or no fiscal impact on local governments.

The Kentucky League of Cities believes SB 35 GA 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 GA 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.

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

The local government impact for SB 35 GA is the same as for SB 35 as introduced. 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, 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

**Preparer:** Mary Stephens **Reviewer:** KHC **Date:** 1/31/18