CHRIS KAPENGA
WISCONSIN STATE SENATOR

Testimony on Senate Bill 634 – Employment Law Standardization Act

Senate Committee on Labor and Regulatory Reform

January 9, 2018

Thank you Chairman Nass for holding a public hearing today on Senate Bill 634. I also want to thank Representative Hutton for authoring this important legislation in the Assembly.

In 2005 Governor Jim Doyle signed Act 12 into law, pre-empting local governments from imposing minimum wage ordinances, and in 2011 Governor Walker signed Act 16 into law, preventing local governments from imposing ordinances that mandate private employers provide paid sick leave. Both governors saw the value in ensuring that Wisconsin did not become a patchwork quilt of employment laws.

Recently, there has been a nationwide movement to impose stricter and more burdensome employment laws at the local level, consequently restricting the free movement of labor and burdening employees and employers alike with excessive regulation. Senate Bill 634 makes clear that for matters regarding employment law that uniform standards are of statewide importance and establishes a baseline in a number of areas.

1. **Uniformity in occupational licenses**
   2015 Act 65 prohibited local governments from creating additional occupational licenses moving forward. This bill builds on that legislation by restricting the ability of local governments to enforce licensing requirements that are more stringent that state standards, thus ensuring that licensees do not have to comply with duplicative rules and fees across the state.
2. **Uniform regulations for employment hours**
   Cities across the nation, such as Seattle and San Francisco, have passed ordinances that interfere with private scheduling arrangements between an employee and employer. This bill sets a statewide standard for employee scheduling, hour and overtime regulations and prohibits municipalities from passing ordinances that regulate these practices.
3. **Uniform regulations for employee benefits**
   Employees and employers should have the ability to negotiate a compensation package free of government interference. This bill reaffirms the right for employees and employers to agree upon the employment terms they feel are acceptable to their own personal situations.

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4. **Right to Ask**

   Employers often ask prospective employees their salary history in order to make an informed decision on compensation packages. Employees have the ability to choose whether or not to respond. Recently, there has been a nationwide push to prohibit employers from asking that question. This bill would prohibit local governments from passing ordinances that bar the right to ask.

5. **Prohibit mandatory Labor Peace Agreements**

   Labor Peace agreements are used by municipalities across the country to force employers to relinquish their rights regarding union organizing granted under the National Labor Relations Act. Under these agreements, if employers do not agree to certain demands, they could risk not receiving the necessary permit, approval or license to operate. This bill bars local units of government and the state from mandating this coercive practice, while still allowing willing parties to utilize it.

6. **Set a statewide standard and prohibit local ordinances regarding wage claims**

   If an employee believes they have not been paid earned wages, they currently have the ability to file a wage claim with the Department of Workforce Development or the Department of Labor. This bill reaffirms that process, but also states that local governments cannot enact an ordinance that creates a separate wage claim process.

7. **Create a statewide standard for employment discrimination**

   This bill affirms that the standards for employment discrimination set in §111.321 are the discrimination standards that apply across the state. Local governments are prohibited under the bill from setting their own discrimination ordinances.

8. **Eliminate mandated pay scales for employers that contract with local governments**

   Current law prohibits local governments from setting their own minimum wage ordinances, except for contractors doing business with that locality. Many local governments have used this loophole to establish wages that are based on politics and not market demands. This bill removes that loophole and allows contractors and their employees to determine an adequate wage for the job performed, but continues allowing local governments to set wages for its employees.

Wisconsin is made up of 1,924 different municipalities. Imagine the complex web of regulation that businesses and employees would be forced to comply with if every one of those municipalities passed separate ordinances governing employment laws. This possibility makes Wisconsin a less attractive place to grow or locate a business. By passing this legislation we can join other states like Tennessee that have taken similar steps towards ensuring they remain competitive.

Thank you Mr. Chair. I would be happy to answer any questions.

Rob Hutton

STATE REPRESENTATIVE • 13TH ASSEMBLY DISTRICT

January 10, 2018

To: The Senate Committee on Labor and Regulatory Reform
From: Rep. Rob Hutton
Re: Senate Bill 634

Testimony of Rep. Rob Hutton in Support of Senate Bill 634

Thank you Chairman Nass and members of the Committee for the public hearing on SB 634. This legislation comes at an important time as we see the economy growing nationwide and employers expanding their operations. The topic of standards and regulations that all businesses in Wisconsin must follow should be one the State of Wisconsin is directing to ensure equity and fairness to employees and employers in Wisconsin regardless of which town, village, city, or county they work in.

SB 634 makes eight important changes to create a standard playing field for employers and to provide certainty to the rights of employees whether they are working in Milwaukee, Dane, Brown, or Eau Claire County. These include: the prohibition of Mandatory Labor Peace Agreements, prohibiting local governments from creating duplicative occupational licenses, creating statewide uniform regulation for employment hours, creating statewide uniform regulations for employee benefits, allowing employers the right to ask salary information from prospective employees, eliminating mandated pay scales for employers contracting with local governments, creating a statewide standard on wage claims and prohibiting local governments from establishing a duplicative process, creating a statewide standard for employment discrimination.

This reform follows in the footsteps of the minimum wage preemption law, signed by Governor Doyle, and the preemption of paid sick leave ordinances passed in 2011. These two changes along with the eight proposed reforms are important in establishing clarity and a straightforward process in business operations in which government is involved in. This prevents patchwork laws that employers must sift through costing time and additional resources that could be invested in the business and its employees. Just as important, this establishes certainty for employees so they know that they may receive the same treatment form the business and the government no matter where they are located. Further, it ensures that no one employee is treated differently by the government or business based on the physical location in which they work.

I appreciate your time in hearing my testimony. These reforms are the next step in continuing to improve Wisconsin's business climate, attract new businesses, better protecting Wisconsin's employment talent, and creating an atmosphere for business to provide family supporting jobs. I am happy to address any questions you have at this time.

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WMC

WISCONSIN MANUFACTURERS & COMMERCE

TO: Members, Senate Committee on Labor and Regulatory Reform

FROM: Scott Manley, Senior Vice President of Government Relations

DATE: January 10, 2018

RE: Support for Senate Bill 634

Wisconsin Manufacturers & Commerce (WMC) thanks Chairman Nass for holding a hearing on this important legislation, and for providing an opportunity to convey our support for Senate Bill 634. We respectfully ask members of the Committee to support passage of this bill.

WMC is Wisconsin's largest general business association, with roughly 3,800 members representing all sectors of our state's economy. Our membership consists of small, medium and large businesses from all portions of our state. Since we were founded in 1911, WMC's mission has focused on making Wisconsin the most competitive state in the nation to do business. Having fair, consistent, predictable and uniform employment regulations is an important factor in the competitiveness of Wisconsin businesses.

There are many aspects of employment regulation that are best governed by a uniform statewide policy. For example, Wisconsin currently establishes a statewide standard for certain employment regulations, and explicitly prohibits local governments from enacting ordinances regulating the same activity. Those areas include establishing a minimum wage, and regulating family medical leave benefits. In addition, the Legislature has already preempted local governments from regulating discrimination based upon creed in a manner inconsistent with state law.

Senate Bill 634 expands this same concept to provide uniform employment regulation for employment hours, overtime, benefits, discrimination and wage claims. The bill also prohibits a local government from requiring occupational licensing requirements that are more stringent than state law, and preempts local governments from prohibiting employers from asking about the salary history of prospective employees.

Employers face a daunting regulatory burden as it relates to state and federal regulation. A recent report by the National Association of Manufacturers found that the average company in the United States spending $9,991 per employee *each year* to comply with the cost of federal regulation alone. Piling additional regulation on top of this substantial burden with unnecessary and unwarranted local government regulations makes it even more costly to operate a viable business. It's important to remember that every dollar a business spends to comply with local regulation is a dollar that cannot be spent toward higher wages, higher benefits or the hiring of additional workers.

A patchwork of local employment regulation is also impractical. Wisconsin is home to 190 cities, 407 villages, 1,255 towns and 72 counties. Together, these political subdivisions add up to a combined total of 1,924 local governments. Employers should not be subject to the whim of 1,924 different regulations

for wage, hour, discrimination or employee benefits. Nor should businesses have to guess what employment regulations apply based upon where they happen to do business in our state.

Senate Bill 634 seeks to prevent employers from being caught in the regulatory spider web of nearly two-thousand local governments by preempting local governments from enacting and enforcing local ordinances related to employment regulation. This will ensure a uniform, fair and predictable regulatory regime in our state.

Opponents will argue against preempting local governments from regulating in these aspects of employment regulation, citing home rule as their basis for regulation. However, Wisconsin courts have consistently found that home rule does not extend to matters of statewide concern, and cannot encroach upon statewide legislative policies. As such, local governments are already preempted from regulating in many of the areas covered by Senate Bill 634 under the constitutional doctrine of *field preemption*.

Specifically, the Wisconsin Supreme Court declared that local governments are preempted from regulating in areas of statewide concern in the case Anchor Savings & Loan Ass'n v. Madison EOC. In that case, the Court stated that municipalities are prohibited from regulating where an ordinance (1) logically conflicts with state legislation; (2) defeats the purpose of state legislation; or (3) goes against the spirit of state legislation. It also stated that where the legislature has "adopted a complex and comprehensive statutory structure" an ordinance that runs counter to that structure violates the spirit of the legislation and is preempted.

In the Anchor case, the Court found the Madison EOC was preempted from enforcing its finding of discrimination based upon marital status because doing so would conflict with state laws regulating bank loan practices. Moreover, in Fox v. Racine, the Court wrote "a municipality cannot lawfully forbid what the legislature has expressly licensed, authorized, or required, or authorize what the legislature has expressly forbidden." In other words, local governments cannot override the Legislature in areas where the Legislature has already enacted statewide requirements.

The Wisconsin Legislature has already adopted a "complex and comprehensive statutory structure" related to wage claims and collection, employment discrimination, employee hours and overtime. It has also established the Department of Workforce Development as the central authority in our state to administer and enforce these statutes on a statewide basis. Consequently, local governments are already preempted from regulating in these areas, and any ordinances attempting to do so are void.

Finally, this legislation prohibits state and local governments from engaging in what is essentially regulatory blackmail. Specifically, the bill prohibits a local government from conditioning approval of any permitting, zoning or other approval by requiring an applicant to waive his or her rights under state or federal labor laws. Some municipalities have conditioned development approvals on a business waiving its rights under federal unionization laws. This is unfair, and must stop. No one would argue that workers should be forced to give up their state or federal labor rights as a condition of receiving state or local licenses/permits. By the same reasoning, it is patently unfair to require employers to give up their labor rights in order to obtain state or local permits.

Thank you for your thoughtful consideration of this important legislation. We believe Senate Bill 634 will ensure that employers in our state have a fair, consistent and predictable climate for employment regulation that is free from the undue burden of local government intervention. We respectfully ask that you support passage of the bill, and would be happy to answer any questions.

To: **Wisconsin State Legislature**

From: **Keep Families First Coalition (complete list below)**

Date: **January 9, 2018**

Re: **SB634- Local Labor protection law**

We are writing to share our significant concerns regarding 2017 SB 634, which would prevent municipalities and cities from enacting or enforcing local regulations that strengthens local employment policies and benefits. The Keep Families First Coalition, a statewide coalition of over 65 organizations that advocates for policies that promote economic security for Wisconsin families, opposes this proposal because it greatly restricts the ability of local governments to improve the economic security and working conditions of workers in their communities. These restrictions will be particularly detrimental for efforts to increase equity for women, workers of color, and LBGT Wisconsinites.

If passed, SB 634 would place the following restrictions on local governments

1. Further restrict local governments from establishing a minimum wage for any workers by prohibiting local governments from setting a higher minimum wage for local government employees, private sector employees who perform contract work for a local government, or private sector employees who perform work that is funded by a local government.
2. Prohibits local governments from enacting any regulations that would provide employees protections from employment discrimination.
3. Prohibits local governments from enacting any regulations that would provide employees with additional rights or remedies to recover wages that an employee believes she or he is owed by her employer.
4. Prohibits local governments from enacting any regulations of employee hours, including any requirements that employees be provided with advance notice regarding their schedules.
5. Prohibits local governments from enacting any regulations that require employers to provide employees with any specific type of benefit (i.e.: paid time off).
6. Prohibits local governments enacting regulations that would restrict an employer's right to solicit information regarding the salary history of a prospective employee.
7. Prohibits local governments from enacting any occupational licensing requirements that is more stringent than the state occupational licensing requirements for that particular occupation.
8. Finally, the bill prohibits state or local governments from enforcing any regulation that would require any person or business to accept any provision that is subject to collective bargaining under state or federal law. This provision is meant to preempt what are commonly referred to as "labor peace agreements," under which workers who choose to form a union agree not to protest, strike, or otherwise disrupt business, while employers agree not to pressure workers not to unionize. Many localities across the country have used such agreements to protect the

rights of workers to unionize at publicly funded or subsidized projects such as airports or mass transportation projects.

We believe the state legislature should value the uniqueness of local cities and protect laws that increase equity in the workplace. Minimum wage earners have not received a wage increase since 2008. Those most affected by this are most often women and women of color who are working to support their families in occupations that infrequently raise wages or provide meaningful career advancement opportunities. Cities in Wisconsin have been able to make minimal gains by setting different wage standards for city contractors and vendors so that residents can achieve adequate living standards, earn some savings, and have a few extra dollars to spend--- which helps drive the local economy and generates tax revenue.

As a coalition we strongly caution against removing these protections because it would drive up other related costs, such further need to access state assistance, debt for working families, , and fair scheduling policies that help low-income workers plan a path out of stagnant, low-wage work.

We also know local autonomy allows cities to create goals that help drive local innovation. SB 634 would remove the ability of cities that wish to lead in this area as a way to attract businesses and skilled workers. We are also concerned that this bill restricts the ability of local governments to address bad business actors who fail to enforce existing labor laws or adequately address workplace discrimination.

As a statewide coalition, we value the ability of workers to support themselves and their family members and for cities to have the autonomy to create policies that promote that goal. As a result, we urge the state legislature to oppose SB 634 for the wellbeing of the state and its workers.

The Keep Families First Coalition

9to5 Wisconsin
Clean Slate Wisconsin
Dignity @ Work Coalition (Madison)
Fresh Start, INC
Mary's Daughter LLC
Milwaukee African American Breastfeeding Network
Wisconsin Alliance for Women's Health
Wisconsin Democracy Campaign
Wisconsin Federation of Nurses and Health Professionals
Wisconsin Voices
South Central Federation of Labor, AFL-CIO

Winning Justice for Working Women

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Milwaukee, WI 53202
414.274.0925
www.9to5.org

January 10, 2017

9to5 Wisconsin, strongly opposes SB 634 on the basis that it would severely hurt working women of Wisconsin who need access to critical worker protections for family survival.

9to5 WI was founded in 1982 and is one of the largest advocacy women organizations with members in every district in our state. We were created as a collective voice for and by working women--fighting against sexual harassment and wage inequities, as well as providing trainings to prepare women to access better employment opportunities that allow them to balance work and home life. We know there is no one magic policy to ensure that all working women can thrive. That requires an integrated approach that assists rather than harms her ability to make a living wage and take care of her family. 9to5 Wisconsin believes that SB 634 would move us further away from the goal of supporting women and families.

Last year, 9to5 and the Coalition of Human Needs released a report on poverty in our state; for a family of four in 2016, the official poverty line was $24,563.[i] According to the Census Bureau, more than 286,000 Wisconsinites (5.1 percent) live in deep poverty, meaning they live below half of the poverty line. That's higher than the 4.5 percent in 2007, before the Great Recession. Nearly 82,000 children are among those living in deep poverty. The number of near-poor Wisconsinites – living below twice the poverty line – was 1.6 million in 2016, or 27.7 percent. While that's a decrease from 2015, the proportion of Wisconsinites remaining this economically insecure remains stubbornly close to the 2007 pre-recession level of 26.8 percent.[ii] With numbers like these, its hard to understand the decision to lower wages for workers. A move to repeal or prohibit worker protections regarding wages, fair scheduling and tools to combat discrimination are counterproductive to remedying issues of poverty for women and children.

Poverty has wide-ranging effects on public health, children's well-being, economic security and opportunity. We know that women occupy the some of the lowest paying sectors, which makes workers protections more critical. This law would increase pay inequity for women, who already feel a "six figure" wage gap. And women working for cities around the state will lose their living wages and see a reduction of their paychecks. They lose access to employer provided trainings that increase employability and pay as well as fair scheduling to make it easier for them to fulfill caregiving responsibilities or pursue education.

These repeals harm workers and businesses alike. If an employee makes less than a living wage, they have to work multiple jobs, experience increased stress, have poorer health, and are less able to be productive at work. That stifles innovation, interferes with efficiency and lowers the bottom line. Working women need policies that support workers and business growth. SB 634 would have the opposite effect.

The authors of this bill say it will further "standardization." But the impact would be to lower standards or make them non-existent What standard is preserved by preventing a local government from ensuring pay is based on skills and responsibilities rather than on previous salary? Who benefits if a city or county can't boost efforts to stop wage theft or discrimination?

9to5 urges this committee to vote 'no' on SB 634. It would not assist women workers, businesses nor local cities' ability to create policies that help at-risk women and families. SB 634 is also an attack on democracy. The state should not interfere with local communities' ability to create protections for their communities.

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[i]Coalition for Human Needs and 9to5 WI 2017 Poverty Report, https://www.chn.org/wp-content/uploads/2017/11/Poverty-and-Progress-in-Wisconsin.pdf; Nov. 2017.

[ii] Coalition for Human Needs and 9to5 WI 2017 Poverty report; pg. 2

Stop Repeals on Worker Rights

9to5 Wisconsin is one the largest women's advocacy organizations in ~~the state~~ Wisconsin. We have members all over the state living at the margins. Small changes make a big impact on the lives of our members and their families. Here are some of their stories:

A. Fisher, WI
"I work as a PCW for my mother and at Clean Power. I work 2 jobs because I don't make enough to support myself. I remember when I got sick and I lost a day's pay, which meant a bill went unpaid. I don't like missing work when I have to miss pay as well. A pay decrease would make a big difference in my bottom line"

R. Johnson, WI
"I am a single parent caring for 3 kids. I make less than $12hr part-time and I receive Foodshare and state medical insurance. It's hard to make ends meet. I don't have time to take on a second job because that will take time away from my children who are 7, 8, 9 years of age. My foodshare is about to be cut, so now things are only going to be worse for my family. I would like to see higher paying jobs or full time positions so I can make it on my own without government assistance."

C. Marable, WI
"I work temp jobs, unable to find permanent work. Also there aren't any benefits when working for temps. If I call in sick, they sometimes replace you, like humans are never supposed to get sick. Weeks can go by before finding work or getting called in for work. I need worker protections because my daughter has Lupus and I could never work enough to earn that time to care for my daughter."

Winning Justice for Working Women

207 E Buffalo Street #211
Milwaukee, WI 53202
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www.9to5.org

January 10, 2017

Statement by Raina Johnson; Milwaukee resident and 9to5 Board member

If I were argue my life in front of a jury, the facts of the case would be simple: I am a person. We were all born into this world with guaranteed protections like life, liberty and the pursuit of happiness, so why take that away from me, from anyone? Yes, I honor several identities in my life, from walking around in this world as a visible black person to showing up in spaces as visibly queer, and introducing myself with my non-binary pronouns. Often, you'll see me with a person that's 4 feet tall by my side, that's my son, Elijah and yes, I am a single parent. I have worked very hard to raise him with values that every person deserves dignity and respect regardless of their station in life or how they may be perceived to be different from you. My son is 8 and had a basic understanding of this concept. Hatred isn't taught in my house, why should we enact laws that ultimately ~~make~~ create hurdles for people like myself when truthfully, since we aren't straight, white and male, the deck is already stacked against us. I urge you to seek some guidance on these restrictive laws and really ask yourself why are you doing this. Who does this benefit? Is there a greater good to be gained from these discriminatory practices?

In addition to protections from discrimination, our state must finally protect working mothers from losing the stability we all need with good wages and fair scheduling. I seriously urge you to oppose this bill and protect all Wisconsinites, even those who are different.

Keep Families First (KFF) Organizations

Milwaukee County Labor Council
WI AFL-CIO
Voces De La Frontera
SEIU Healthcare WI
Equality WI
UWM Center for Women's Studies
AFT MGAA 2169
AFSCME Milwaukee District Council 48
ATU Local 998
Black Health Coalition of Wisconsin
Islamic Society of Milwaukee
Tikkun Ha-ir
UWM Children's Environmental Health Sciences Core Center
Milwaukee Board of School Directors
Urban Underground
Wisconsin Coalition Against Domestic Violence
MICAH
Wisconsin Alliance for Retired Americans
Wisconsin Alliance for Women's Health
South Central Federation of Labor
WISAOP
Institute for Wisconsin's Future
ACLU of WI
Disability Rights WI
Sierra Club of WI
Greater Milwaukee Human Rights Network
Center for Progressive Leadership
League of Women Voters
Wisconsin Federation of Nurses and Health Care Professionals
Playground Legends
Milwaukee Area ACLU
Workers United Local 122
Wisconsin Coalition Against Domestic Violence
Dignity@ Work Coalition
Wisconsin Breastfeeding Coalition
Alzheimer's Association
Wisconsin Voices
Community Shares Milwaukee
Painters & Allied Trades District Council No. 7
Citizen Action Healthcare
Planned Parenthood of Wisconsin
NURSES & Medical Staffing Inc
Core El Centro
MTEA
SEIU/good jobs
AFSME DC 48
WISDOM
Donor Collaborative of Wisconsin
American Federation of Teachers Local 212
COPE
Black Health Coalition of Wisconsin
Latina Health Coalition
Campaign Against Violence
YWCA of Greater Milwaukee
Educators Network for Social Justice
Sojourner Family Peace Center
UFCW
AFT Local 212
One Wisconsin Now
Citizen Action of Wisconsin
WisCosh Inc
Wisconsin Board for People with Developmental Disabilities
MGAA- AFT affiliate
SEIU Local 1
Milwaukee Family Peace Center
Mid-day Women's Alliance of Fox Valley

Please contact Astar Herndon via email at astar@9to5.org or by phone at 414-274-0925

January 10, 2018

TO: **Members**
Senate Committee on Labor and Regulatory Reform

FR: **Brian Dake**
Legislative Director
Wisconsin Independent Businesses

RE: **2017 Senate Bill (SB) 634 relating to: preventing the state or local governments from requiring any person to accept certain collective bargaining provisions or waive its rights under the National Labor Relations Act or state labor law; prohibiting local regulation of employee hours and overtime, employment benefits, wage claims and collections, an employer's right to solicit salary information of prospective employees, employment discrimination, and professions regulated by the state; and providing a criminal penalty.**

Chairman Nass and committee members my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2017 Senate Bill (SB) 634.

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent business owners with a voice in the legislative and regulatory activities of state government. Today, we have more than 4,000 members – approximately 85% of which own and operate businesses that have fewer than 25 employees.

The federal Fair Labor Standards Act (FLSA) prescribes standards for hours of work, overtime and youth employment. The State of Wisconsin also prescribes standards for hours of work, overtime and youth employment.

The federal Civil Rights Act protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, gender or national origin. The Wisconsin Fair Employment Law mirrors the anti-discrimination protections set forth in the federal Civil Rights Act.

Generally speaking, there is uniformity between these aforementioned federal and state laws and regulations, but there are some differences between the two. As a small businesses advocacy organization, we seek greater conformity between them as a means to ease the compliance burden for small employers. As you may know, the Wisconsin Department of Workforce Development is currently engaged in administrative rule-making that would conform Wisconsin's hours of work, overtime and youth employment standards to the existing federal standards. WIB is supportive of this effort.

Likewise, we oppose efforts by local units of government to create their own employment-related regulations. In effect, a third set standards that small employers must follow.

Beyond the compliance burden, these local regulatory requirements would create "regulatory islands." Throughout Wisconsin, there are many municipalities that are immediately adjacent to each other. From our perspective, different employment standards that apply to small employers located on one side of the street but not the other is not good public policy.

For these reasons, we support 2017 Senate Bill (SB) 634 and respectfully ask for your support of this legislation as well.

Thank you in advance for your consideration.

WISCONSIN
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MEMORANDUM

TO: Honorable Members of the Senate Committee on Labor and Regulatory Reform

FROM: Marcie Rainbolt, Government Affairs Associate

DATE: January 10, 2018

SUBJECT: Opposition to Senate Bill 634

The Wisconsin Counties Association (WCA) is opposed to Senate Bill 634 (SB 634), which makes numerous changes to local government's ability to regulate various aspects of employment matters, resulting in a loss of local control over those activities in the best interests of the community. WCA understands the desire to reduce regulatory oversight of business in Wisconsin; however, restricting a county's ability to regulate employment matters would negatively impact certain local industries by reducing the quality of a given workforce and impacting the quality of services delivered.

Under SB 634, local ordinances must strictly conform to statewide standards in various aspects of employment regulation. This provision applies a one-size-fits-all approach to local regulation and fails to account for varying features unique to individual counties. These unique features necessitate regulations beyond the minimum state standards. Restricting a county's ability to regulate community-specific issues within its borders would significantly impact a county's ability to increase economic growth through competitive work conditions and the quality of work delivered.

The WCA is concerned that counties would be prohibited from regulating employee hours and overtime, employee benefits, and employment discrimination because these employment issues may be very industry-specific in any given county. For example, counties whose livelihood depends on seasonal tourism have different needs in setting hours, benefits and other work conditions in order to attract and maintain the seasonal workforce. Without that workforce, the tourism industry in these counties would be severely restricted. Other industry-specific workforce needs include farming, mining and certain manufacturing operations such as timber and paper production. In other words, specific areas have specific regulatory needs that should be regulated by counties to ensure that area's continued growth. WCA requests amending SB 634 to ensure counties

can continue to regulate these specific community and industry-based needs to sustain and grow local economies.

In addition to these concerns, WCA and its member counties support local freedom to contract. Many counties impose contract conditions on their service providers in an effort to ensure safe and just working conditions for those individuals providing labor that benefits a county and its residents. Taking that local authority away would harm local businesses and local taxpayers.

WCA understands SB 634's intent of achieving state-wide consistency in employment regulation; however, WCA encourages the committee to understand the local needs of particular industries that are most efficiently regulated, in part, at the local level. While state-wide standards may be necessary, a county's ability to regulate industry specific needs should not be curtailed. A county's ability to regulate these local-industry needs will promote growth because the regulations will be targeted and specific based on local needs. This approach will provide consistency and fairness for both local governments and local taxpayers.

The WCA respectfully requests the committee reject SB 634 in its current form. Please feel free to contact WCA for further information.

Wisconsin Alliance for
Women's Health
www.supportwomenshealth.org

To: **Senate Committee on Labor and Regulatory Reform**
From: **Mike Murray, Policy Director**
Re: **Testimony in Opposition to 2017 Wisconsin SB 634 – Local Labor Law Preemptions**
Date: **January 10, 2018**

Chairman Nass and members of the Senate Committee on Labor and Regulatory Reform, thank you for the opportunity to share my testimony in opposition to SB 634, which would significantly restrict the ability of local governments to enact or enforce several different types of labor protections that would promote economic security and workplace equity for workers in their communities.

The Wisconsin Alliance for Women's Health (WAWH) advocates for policies that promote the health, economic security, and overall wellbeing of women and girls in Wisconsin. As a result, WAWH strongly opposes SB 634, as it would foreclose many of the avenues local governments currently have to pursue policies that will improve the wages and working conditions of workers in many low- an moderate-wage occupational fields in which women are often disproportionately overrepresented.

A few specific examples of local employment laws that would be prohibited should SB 634 become law quickly illustrate our organization's concerns:

- SB 634 would significantly restrict the ability of local governments that wish to proactively address the gender wage gap by prohibiting local governments from enacting local workplace discrimination laws. Some local governments, such as Dane County, have existing workplace discrimination laws that are more expansive than state law. This is particularly troubling in light of the fact that the Legislature repealed the meaningful enforcement mechanisms that were once contained in Wisconsin's "Equal Pay Law," which greatly reduced the effectiveness of this state law.

- SB 634 would prohibit future and repeal existing "living wage" ordinances that provide local government employees, private sector employees who perform contract work for a local government, or private sector employees who perform work that is funded by a local government with a higher minimum wage than the state minimum wage. Many of the workers who are currently covered by such policies are in traditionally low-wage occupations that are disproportionately filled by women.

- SB 634 would further undermine local government's ability to reduce the wage gap by preempting local regulations that would prohibit prospective employers from inquiring about a job applicant's previous salary history, a practice that further perpetuates existing gender and racial wage gaps.

- SB 634 would prohibit so called "labor peace agreements," which further protect the rights of workers who wish to organize a union in their workplace in exchange for workers agreeing not to exercise some of their rights (such as the right to strike or protest) under

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the National Labor Relations Act. The benefits of union membership are particularly pronounced for women workers, as women union members earn 33 percent more than their non-union counterparts. Just as importantly, the **gender wage gap for union members is 56 percent smaller than for non-union workers**, which makes unionization one of the more powerful policy tools for reducing the gender wage gap. [1]

Many of these above-mentioned policies also serve to reduce racial wage gaps and racial discrimination that are faced by members of traditionally marginalized communities.

There are other provisions of SB 634 that are troubling from the perspective of women's economic security, including the bill's prohibitions regarding fair scheduling and wage theft provisions. Instead of going into the details regarding each individual provision, I would like to focus on the larger state policy picture by briefly discussing what would be a more productive state-level approach to local employment laws. Historically, states have usually used preemption laws to set a **minimum statewide employment standard** that creates a floor below which local employment laws could not descend. Such an approach would guarantee Wisconsin workers a minimum standard of wages and job protections, but still allow local governments to experiment with creative, positive solutions for workers in their communities. Should these local initiatives prove successful, then the Legislature should consider adopting such policies statewide.

Many local governments around the country have seized the opportunity to implement employment laws that have greatly benefitted workers in their communities. Unfortunately, Wisconsin has already foreclosed the ability of localities to enact most minimum wage and paid leave ordinances, which are two of the primary ways in which localities can accelerate wage growth and improve working conditions for workers[2]. At a minimum, Wisconsin should abandon this troubling trend of preempting higher local labor standards. If the Legislature truly feels the need to have uniform labor and employment standards throughout Wisconsin, that should be accomplished through **raising statewide standards** with long overdue policies like a living wage increase, paid family and medical leave, and stronger workplace antidiscrimination laws.

Thank you for the opportunity to share WAWH's concerns regarding SB 634. I would be happy to answer any questions you may have regarding my testimony.

[1] https://nwlc.org/resources/union-membership-critical-women%E2%80%99s-wage-equality/

[2] http://www.epi.org/publication/city-governments-are-raising-standards-for-working-people-and-state-legislators-are-lowering-them-back-down/

City of Milwaukee

Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

La Keisha W. Butler
Director of Intergovernmental Relations

City of Milwaukee Testimony on SB-634
Senate Committee on Labor and Regulatory Reform
January 10, 2018

Chairman Nass, Vice-Chair Wanggaard, members of the committee, thank you for the opportunity to testify today. The City of Milwaukee opposes the proposed Employment Law Standardization Act because of its limiting effects on the ability of political subdivisions to control matters related to employment within its boundaries.

The Employment Law Standardization Act proposes to make several areas, namely employee hours, benefits, and wage claims, matters of statewide concern, and prohibits municipalities from enacting ordinances that relate to those subject areas. It is one thing to prohibit future legislation. However, this bill goes a step further and invalidates local legislation that has already been enacted. This is a significant negative impact on local control. SB-634 also prohibits municipalities from having more stringent requirements for occupational licenses than those required by state law. The State previously prohibited municipalities from creating occupational licenses where the State did not require one in 2015 WI Act 65. Now SB-634 proposes to limit local government's ability to set standards for occupational licenses it already has.

In addition to undoing/rolling back local ordinances statewide, the bill interferes with a municipality's ability to negotiate with vendors in good faith and develop contract terms it deems to be in the best interest of its citizens. Current law prohibits municipalities from enacting ordinances that require a different minimum wage rate for 1) an employee of the municipality; 2) an employee who performs work under a contract for the provision of services to the municipality; or 3) an employee who performs work that is funded by financial assistance from a municipality. Within these exemptions, the City of Milwaukee has determined as a matter of policy that its citizens deserve a minimum wage greater than that set by state law. The City pays its employees, and requires its contractors to pay, a minimum wage of $10.89 per hour. SB-634 would eliminate all of the aforementioned exemptions (and thereby enforcing a correlating ordinance) and would invalidate such terms in existing contracts as of the effective date of the bill.

Finally, the bill also declares as a matter of statewide concern employment discrimination laws. It prohibits municipalities from enacting ordinances related to employment discrimination and from enforcing employment discrimination laws already on the books. The City of Milwaukee, through its Equal Rights Commission, has worked to create a process for those subjected to discrimination to be heard when the basis of the discrimination is not a protected category under federal or state employment discrimination laws. In fact, the explicit intent was to avoid infringing on claims that should be heard by either the Equal Employment Opportunity Commission or the Department of Workforce Development. SB-634 would essentially repeal that chapter of Milwaukee's Code of Ordinances.

The City of Milwaukee is opposed to SB-634 and respectfully asks the members to vote no on this bill.

For additional information, please contact:
La Keisha W. Butler, Director of Intergovernmental Relations, labutl@milwaukee.gov, (414) 286-5513

LEAGUE OF WISCONSIN MUNICIPALITIES

131 W. Wilson St., Suite 505
Madison, Wisconsin 53703
phone (608) 267-2380; (800) 991-5502
fax: (608) 267-0645
league@lwm-info.org; www.lwm-info.org

To: Senate Committee on Labor and Regulatory Reform
From: Curt Witynski, J.D., Deputy Executive Director, League of Wisconsin Municipalities
Date: January 10, 2017
Re: SB 634, Prohibiting local governments from establishing minimum wage standards for their own employees or the employees of their contractors

The League of Wisconsin Municipalities opposes SB 634. Our main concern is that the bill repeals language in current law allowing municipalities to require a different minimum wage rate for 1) an employee of the municipality; 2) an employee who performs work under a contract for the provision of services to the municipality; or 3) an employee who performs work that is funded by financial assistance from the municipality.

These are policy decisions that are best left in the hands of local elected officials. A municipality should be allowed the option of requiring recipients of municipal grants or contractors working on municipal projects to pay their employees a certain level of wages that may exceed the state's minimum wage. Local elected officials are in the best position to make such policy decisions based on the character, concerns and values of their communities. The wages paid to municipal employees and the employees of contractors doing work for a municipality are primarily a matter of local concern and should lie outside of the state's ability to interfere. Municipalities understand that the minimum wage established by the state is uniform and must control in every community. However, state law wisely allows a community to adjust the minimum wage for their own employees or for the employees that work for a contractor that performs work for the municipality or for employees of an agency receiving a grant from the municipality. We object to the portion of the bill eliminating those exemptions.

Unless the authors amend the bill to retain the exceptions in current law, we urge you to vote against recommending passage of SB 634. Thanks.

WISCONSIN GROCERS ASSOCIATION

MEMORANDUM

TO: Members of the Senate Committee on Labor and Regulatory Reform

FROM: Michelle Kussow, Wisconsin Grocers Association

RE: Support of SB 634

Date: January 10, 2018

On behalf of the Wisconsin Grocers Association, we ask for your support of SB 634 which will create a uniform, statewide standard for employment and labor issues.

In 2015, the Madison City Council passed a proposal making homelessness a protected class, meaning an employer cannot discriminate against an employee based on being homeless. In 2008, Milwaukee passed a requirement that employers provide one hour of sick leave for every 30 hours worked. In 2004, Madison passed a requirement that increased the mandated minimum wage every year based on inflation. Local employer mandates such as these create inconsistent labor laws across the state, which makes it difficult for businesses with multiple locations to comply. In addition, in industries such as the grocery industry with large workforces, minimum wage mandates, benefit mandates and other labor regulations increase the cost to do business and lead to increased consumer prices and the inability for businesses to compete.

Fortunately, common sense prevailed in each of these situations with the Mayor vetoing the homelessness issue and the Wisconsin Legislature prohibiting municipalities from enacting sick leave ordinances (in 2015) and setting minimum wage levels higher than the state (2005). While sick leave and minimum wage laws are now strictly left to the State, there are numerous other employment issues that municipalities could pass, such as: requiring employers to provide employee schedules 2 weeks in advance; requiring specific occupational licensing; and mandating employee benefits.

Once again, we respectfully request your support of SB 634 which will standardize employment regulations in a number of areas, and prohibit a patchwork of local units of government setting varying employment ordinances that conflict with state law.

NFIB
The Voice of Small Business®

Wisconsin

Statement Before the
Senate Committee on Labor and Regulatory Reform

By

Bill G. Smith
State Director
National Federation of Independent Business
Wisconsin Chapter

Wednesday, January 10, 2018

Senate Bill 634

Mr. Chairman, members of the Committee, thank you for scheduling today's public hearing for a proposal strongly backed by our state's small and independent business owners.

For 75 years, NFIB has been a leading advocate for our hard-working small business owners. I appear today on behalf of our nearly 11,000 members located throughout our state.

Several years ago, NFIB supported legislation signed into law by Governor James Doyle that created a statewide, uniform standard for minimum wage rates.

More recently, NFIB also supported legislation that establishes a preemption of paid sick leave proposals by local governments.

Senate Bill 634 would continue to recognize the challenge many of our small business employers have with compliance issues relating to a variety of labor-related issues.

When Governor Doyle signed the minimum wage preemption legislation into law, he understood the difficulty employers and employees have complying with a confusing patchwork of laws and regulations that could vary from one local government entity to another.

When we asked our members if legislation should be enacted to prohibit local units of government from enacting their own labor laws – 79 percent said yes, we support labor law uniformity across the state.

Governor Doyle got it right when he signed the minimum wage preemption into law, Governor Walker got it right when he signed the paid sick leave preemption into law, and our state's small business community got it right when they said they strongly supported legislation that sets statewide labor law standards.

Mr. Chairman, **I respectfully urge the Committee support passage of Senate Bill 634.**

WORKFORCE FREEDOM INITIATIVE
U.S. CHAMBER OF COMMERCE

January 8, 2018

VIA ELECTRONIC MAIL:

Senator Steve Nass, Chairman
Senate Committee on Labor and Regulatory Reform
State Capitol - Room 10
South Madison, WI 53703

Dear Chairman Nass and members of the Labor & Regulatory Reform committee:

On behalf of the U.S. Chamber Institute for Legal Reform, I urge you to pass SB 634, which ensures Wisconsin has consistent regulatory policies across the state, which is an important component of economic growth.

SB 634 preempts local employment regulation in several areas and promotes uniformity of law across the state. The bill prevents adoption of labor peace ordinances, streamlines the licensing requirements for occupational licensing and statewide regulations on overtime laws, and ensures that employers across the state may enquire about an applicant's salary history.

Specifically, SB 634 prevents adoption of labor peace ordinances, which allow local governments with either an ownership stake or financial interest in a facility, to require businesses to sign labor peace agreements with unions or lose the business. Labor peace agreements give unions tremendous leverage to demand all sorts of organizing concessions, so SB 634 essentially ensures that workers' and employers' rights are not infringed on by local governments.

SB 634 also ensures that occupational licensing standards are uniform across the state. It further provides that overtime laws should not vary from town to town.

The same principle has been applied to additional workplace benefits such as retirement, profit sharing, leave or insurance.

Finally, SB 634 provides that employers across the state may enquire about an applicant's salary history, in an effort to identify quality applicants and ensure they receive the consideration they deserve when applying for a job.

This bill serves to only strengthen Wisconsin's reputation as a great place to work.

Sincerely,

Glenn Spencer

Glenn Spencer, Vice President
Workforce Freedom Initiative

cc: Members of Senate Committee on Labor and Regulatory Reform

Wipperfurth, Jacob

From: Glory Adams <gloryaec@att.net>
Sent: Monday, January 08, 2018 7:45 PM
To: Sen.Vinehout (from a constituent)
Cc: Sen.Fitzgerald; Sen.Moulton
Subject: SB 634

Follow Up Flag: Follow up
Flag Status: Flagged

Please include my comments below in the hearing transcript for SB 634 on Wednesday, January 10, 2018. Thank you.

This bill should not become law for the following reasons:
1. As Wisconsin struggles to find and retain competent workers, this bill makes working conditions less conducive to retaining and supporting workers by setting criminal penalties for the passage of labor peace agreements by municipalities, makes illegal the ability of a municipality to enact employment discrimination standards, prohibits local governments from setting employment benefits, time off, or retirement benefits, forbids local governments to create agencies to handle worker complaints about wage theft or wage claims, and includes other prohibitions. These clauses are anti-worker. If this state wants a thriving economy and needs workers, it is imperative that workers be treated with respect and support. If local governments are willing to do so, they should be able to.
2. The state has been lax in supporting workers so it is only logical that local municipalities are stepping in to do what is not being done and will not be done at the state level.
3. By prohibiting local governments from protecting and supporting workers, this bill is a blatantly anti-democratic.
4. The state does not have knowledge of local economic conditions that local governments are attempting to address. Wisconsin is NOT homogeneous. Different areas have varied economic and worker needs. Municipalities must be allowed to address those needs without interference from the state.
5. All around the country local governments have been raising minimum wages simply because the federal and state governments are too often refusing to address the lack of a living wage for workers. The local governments are simply acting when the states and federal governments refuse to. Without a wage that supports basic life, the state and federal governments end up doling out additional monies to feed and support workers using taxpayer money.

This is an anti-worker, anti-democracy piece of legislation. It is demeaning both to local governments and to workers. Please do not pass SB 634.

Glory Adams
1216 S Farwell St
Eau Claire, WI 54701
715-834-8796

Statement from Larry Miller
Milwaukee Public School Board Director
to
Senate Committee on Labor and Regulatory Reform
In Opposition to SB 634

I am writing to oppose SB 634, a bill that would undermine local democracy in a state that has had a proud history of being a pacesetter in guaranteeing a voice for its residents and a significant role for local units of government.

The Milwaukee Public School Board knows well the conditions of the families we serve and the employees we hire and contract with. We are best positioned to make decisions about improving their pay and protecting their rights. SB 634 claims it wants standardization of employment conditions throughout the state. But this bill appears aimed at lowering standards or erasing them altogether. Our state leaders should not be in the business of harming the families they claim to serve.

Duly elected representatives of local communities are baffled as to why the authors of SB 634 feel the need to intrude in our decision-making. I strongly urge the members of the Senate Committee on Labor and Regulatory Reform to vote 'No' on SB 634 and respect the authority of local governments and communities.

WH&LA
Wisconsin Hotel & Lodging Association

Serving the
hotel & lodging industry
for more than 100 years

January 10, 2018

To: Senate Committee on Labor and Regulatory Reform
Senator Steve Nass, Chair

From: Trisha A. Pugal, CAE
President, CEO

RE: **Support of SB 634 Employment Law Standardization Act**

On behalf of Wisconsin's Lodging Industry, representing properties of all sizes and locations around our state, we respectfully ask for your support of SB 634 for the following key reasons:

- Removing the potential for local governments to set a wide variety of employer mandates around the state makes complete sense in avoiding confusion for employees and employers alike in their benefits and operational processes.
- Many employers, such as many in the hospitality industry, have to be resilient to the needs of their guests and customers. In order to service the fluctuations of demand, whether it is fluctuation occupancy in lodging properties or diners choosing to eat at our restaurants when they wish, it requires enabling employers to work out mutually beneficial flexibility with their employees, without being subject to policy regulations that differ from one community to another.
- With the tightening of the labor market currently underway, employers are by nature providing the best policies and benefits they can possibly offer in order to attract and retain the staff they want and need to operate a successful business. Keeping regulations more uniform at the state level enables lodging properties and other businesses with multiple locations in the state to better manage and serve both their customers and their employees.

We ask you to continue to allow Wisconsin businesses to provide good wages and benefits that best fit the needs and interests of their own employees, without a patchwork of conflicting local business interference that does not help businesses or their employees and customers.

Please support SB 634.

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whla@wisconsinlodging.org
www.wisconsinlodging.org

American
Hotel & Lodging
Association

KIDS FORWARD

Every Kid. Every Family. Every Community.

DATE: January 10, 2018

TO: Senate Committee on Labor and Regulatory Reform

FR: Ken Taylor, Executive Director
608.284.0580 ext. 302
ktaylor@kidsforward.net

RE: Senate Bill 634 – preemption of local regulations relating to labor

Chairperson Nass and committee members:

Thank you for this opportunity to submit our comments on Senate Bill 634.

Kids Forward aspires to make Wisconsin a place where every child thrives by advocating for effective, long-lasting solutions that break down barriers to success for children and families. Using research and a community-informed approach, Kids Forward works to help every child, every family, and every community thrive.

We firmly oppose Senate Bill 634 because we think Wisconsin needs to do more to improve working conditions for Wisconsinites, rather than chipping away at local labor regulations.

Local officials are much better positioned to determine what is best for the workers and employers in their communities, and the health of the local economy. Since the inception of our state, Wisconsin's municipal governments have had strong home rule authority, and there is no compelling reason to chip away at that authority over matters relating to labor law. Economic conditions differ greatly in different parts of the state, and local officials need to have the flexibility to respond to those differences.

In addition, as a state, Wisconsin has significant racial and gender gaps when it comes to income and employment. This bill forecloses many of the efforts local governments have pursued to address these gaps.

We are surprised and disappointed that state lawmakers are proposing restrictions on setting minimum local requirements for employee benefits, such as paid sick leave, when state policymakers have not made an effort to set a minimum state floor for those benefits. To preempt local action on issues that the state is uninterested in or unwilling to tackle would be a severe blow to the principle of home rule and to the lives of hard-working Wisconsinites in communities across the state

Cities in most of the country have extensive home rule powers, which have allowed them to legislate over a wide range of areas in order to respond to local needs. Employers are accustomed to dealing with varying rules across cities and counties. They have adapted to varying rules concerning zoning, construction, business licenses, and many other local laws.

In other states, it isn't uncommon for localities to have their own regulations relating to issues like conditions of employment or employment discrimination. For example, more than 40 cities or counties have adopted local minimum wage laws that are helping workers better afford the basics. The authority to enact a local minimum wage allows higher-cost-of-living communities to adopt a minimum wage that better meets local living costs.

Local minimum wage increases have had positive impacts. The White House Council of Economic Advisors released a study late in 2016 of all U.S. minimum wage increases since the recession. It found that these increases delivered significant raises with little negative effect on job growth.

For that reason and others, local governments should have more authority to address local needs, rather than less, including a restoration of their authority to have a minimum wage higher than the state minimum. But please, at least allow local elected officials to represent their constituents by retaining their existing authority to regulate employment discrimination and conditions.