



The Implication of the Job Creation Law on Local Government Basic Service Affairs

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Abstract. With the adoption of Law No. 11 of 2020 on Job Creation, 80 sectoral laws were amended, 51 derivative regulations were drafted in the form of Government Regulations (47) and Presidential Regulations (4), and the direction of decentralization was changed. Changed to decentralization. The purpose of this paper is to analyze the impact of the implementation of the Employment Creation Act on the basic services sector of local governments. The results of our analysis using a textbook approach show that: The Employment Creation Act amended Article 8 of Law No. 23 Year 2014 on Local Government and was last amended by Law No. 9 Year 2015 on Second Amendment to Law No. 23 Year 2014 and added 2 Articles. local administration. Modifications and additions to these articles without affecting her six obligations of the local authority relating to basic services stipulated in Law No. 23 of 2014. However, the implications for mandatory local government affairs related to basic services actually arise from changes to related sectoral laws which are also amended by the Job Creation Law.

Keywords: local · government · affairs · job · creation

1 Introduction

The living conditions of people around the world, including in Indonesia in the era of the industrial revolution 4.0 are currently experiencing disruption. According to the Big Indonesian Dictionary, disruption is defined as something that is uprooted. Disruption is also interpreted as an era of innovation and massive change that fundamentally changes

all existing systems, arrangements, and landscapes in new ways. This disruptive condition also has an influence on the social conditions of people's lives, which in the end will also affect the legal conditions that exist in the midst of society.

Indonesian contemporary law that exists today is heavily influenced by the process of globalization and the industrial revolution that prioritizes capital strength, convenience (shortcuts) and individualism values. This is evidenced, for example, by the existence of Law No. 11 of 2020 on Job Creation. The law carries the slogan of promoting investment and simplifying licensing. This, in abstract terms, can be seen as incompatible with the family economic system provided for in the Constitution.

In the event of a formal review of Law No. 11 of 2020 on Job Creation, contrary to the Constitution of the Republic of Indonesia of 1945, the Constitutional Court, by its Decision No. 91/PUU-XVIII/2020, decreed that: was dropped.

It is formally flawed in its preparation and has been declared conditionally unconstitutional and must be corrected within two years of the Constitutional Court's ruling. The Job Creation Act will remain in force until the new regime is amended according to the deadline specified in the Constitutional Court decision. In addition, the Minister of the Interior has also issued the Minister of the Interior Decree No. 68 of 2021 as a follow-up to the Constitutional Court Decision No. 91/PUU-XVIII/2020 on formal review of the Constitutional Court. Law No. 11 of 2020 on Nature's Job Creation continues to coordinate local and local regulations. Along with applicable provisions of the Jobs Creation Act. This situation certainly confirms that the existence of the Job Creation Act has changed the organization of local authorities.

The Job Creation Law which amends 80 (eighty) sectoral laws and is elaborated in 51 (fifty one) derivative regulations in the form of Government Regulations (47) and Presidential Regulations (4) has changed the direction of decentralization to recentralization. The Job Creation Act and its derivative regulations show a shift in the meaning of legal politics towards the issue of simplification of licensing, ease of investment which leads to the creation of new jobs.

Simplifying complex regulations to encourage investment and employment has made the Omnibus Law method in the Job Creation Law implications for changes in regional authority and business processes in the regions. The claims raised regarding the application of the Job Creation Act to the interests of regional autonomy have the potential to cover deficiencies and correct deviations from the implementation of regional autonomy so far, namely from an administrative perspective, including (improvement of the licensing system in the regions, preventing corrupt practices), and in terms of economy, including (opening access to job creation, facilitating business access and investment climate) [1].

However, the creed of ease of investment and simplification of permits carried out will certainly have an impact on the administration of local government, so that the conditions described above require further studies to see the impact on regional government affairs relating to basic services as a form of concurrent affairs. Which must be carried out by the local government.

2 Method

This work is based on research results conducted using prescriptive legal research methods. The problem approaches used are the statutory approach and the conceptual approach.

3 Discussion

A. *Regional Autonomy and Regional Government Affairs*

Etymologically, autonomy is defined as self-government (auto = self, nomos = government), but in Greek autonomy comes from the words aotus = self, nemein = dedication or permission, the power of self-regulation. (Term) autonomy in this sense therefore includes the concept of independence and freedom of self-regulation (a household within one's own territory) [2].

Another view holds that the concept of local autonomy derives from two fragments of him, the Greek words autos and nomos, where autos means self, nomos means law, and autonomy means law and regulation (zelfwetgeving). I mean) Besides zelfwetgeving (making local ordinances) which means the creation of self-government, autonomy mainly includes self-bestuur (self-government). C. W. van der Pott understands the concept of municipal autonomy as his eigenhuisholding (managing one's own home) [3].

Consistent with this view, according to Bagir Manan, autonomy is the freedom and independence of lower government agencies to regulate and control some government affairs. Government affairs that can be governed and managed freely and independently become budget affairs of sub-governmental units. But liberty and independence are the essence of the content of autonomy, not independence.

According to Bagir Manan, the use of the term 'autonomy' is closely related to the nature of local budgetary issues. That is, by waiving or acknowledging certain governmental affairs, Regions have the right to freely (autonomously) regulate and manage these matters according to their interests. The right to regulate and control government affairs, which has become a matter of local budgets, is called autonomy [5]. From a legal perspective, the definition of local autonomy in Local Autonomy Law No. 23 of 2014 includes the rights, powers and duties of autonomous regions to regulate and control their own government affairs and community interests. US system in the Republic of Indonesia.

Bagir Manan is of the opinion, given the country's territory and diversity and the desire to provide the widest possible opportunities for the regions and various legal community units to develop independently, it is necessary to build a new, more appropriate system of governance, namely decentralization with the main core or based on autonomy [6]. That is, autonomy is the core (principal) of decentralization.

According to multiple experts, the definition of decentralization has different theories, but basically has the same meaning. According to Joniart, decentralization gives local governments the power to regulate and manage specific issues as their own budgetary affairs [7]. Sardajan defines decentralization as the transfer of authority from

higher levels of government to lower levels of government, such as legislative, judicial and executive [8].

Decentralization is also defined as a system in the field of government which is the opposite of centralization. In a centralized system, the authority of the government, both at the center and in the regions, is concentrated in the hands of the central government. Officials in the regions only carry out the will of the central government. In a decentralized system, some of the central government's authority is delegated to other parties for implementation. Delegation of government authority to other parties to be implemented is called decentralization.

Regarding decentralization, I Gede Pantja Astawa states that decentralization is not only a spreading van bevoegheid, but also a sharing of authority between the central and local governments to regulate and manage state government administration. It also claims to be shared (scheidend vanmaken). Including government. Decentralization is always associated with independence [9]. Judging by the state function implementation, this indicates decentralization or autonomy:

- Decentralized (autonomous) units are more flexible in meeting rapidly changing changes;
- Decentralized units can carry out their duties effectively and efficiently;
- Decentralized units are more innovative;
- Decentralized units encourage the growth of higher moral attitudes, higher commitment and more productivity [10].

Just because Indonesia adopts a system of local autonomy with the broadest principles of autonomy, it is not without borders. In conducting government affairs, there is a competing division of administrative duties between centers and regions. Competing items are mandatory and optional. Mandate transactions are matters handled by state governments in the area of basic services. Election issues are real state government issues that, depending on the circumstances, have the potential to improve people's well-being.

B. *Decision of the Constitutional Court on the Job Creation Act*

Based on the decision of the Constitutional Court No. 91/PUU-XVIII/2020 in the case of the formal review of Law No. 11 of 2020 on Job Creation to the Constitution of the Republic of Indonesia, 1945, it was decided that:

- Declaring that the enactment of Law No. 11 of 2020 on Job Creation (State Gazette of the Republic of Indonesia No. 245 of 2020, Supplement to the State Gazette of the Republic of Indonesia No. 6573) violates the 1945 Constitution; It is the Republic of Indonesia and is not legally binding. Conditionally, unless construed as "he has not been repaired within two years from the date of issuance of this decision.";
- Declaring that Law No. 11 of 2020 on Job Creation (State Gazette of the Republic of Indonesia No. 245 of 2020, State Gazette of the Republic of Indonesia No. 6573 Supplement) remains in force pending the modification of facilities. In accordance with the grace period specified in this decision;

- Request the parliament to make improvements within a maximum period of two years from the promulgation of this decision, and if no amendments are made within this period, the Job Creation Law No. 11 of 2020 (State Gazette of the Republic of Indonesia), No. 245 of 2020; No., State Gazette of the Republic of Indonesia Supplement No. 417 No. 6573) is permanently unconstitutional.
- Decide that the Parliament cannot complete the amendments to Law No. 11 of 2020 on Job Creation within two years (State Gazette of the Republic of Indonesia 2020, No. 245, Gazette Supplement). (Indonesia No. 6573) subsequently repealed by Law – Law No. 11 Year 2020 on Job Creation (State Gazette of the Republic of Indonesia No. 245 Year 2020, Supplement to the State Gazette). Republic of Indonesia No. 6573) is declared reapplicable.
- Job Creation Law No. 11 Year 2020 (State Gazette of the Republic of Indonesia No. 245 of 2020, Supplement to the State Gazette of Indonesia No. 6573).

Contrary to the content of the Constitutional Court Decision, the Minister of the Interior has issued the Minister of Interior Decree No. 68 of 2021 to comply with the Constitutional Court Decision No. 91/PUU-XVIII/2020. Formal review of his Law No. 11 of 2020 on Job Creation. Basically, we will continue to follow local ordinances and regulations in accordance with the applicable provisions of the Job Creation Act.

C. The Implication of the Job Creation Law on Local Government Basic Service Affairs

The passage of the Jobs Creation Act will affect changes in the local government order and should be mapped so as not to adversely affect the implementation of mandatory local government matters related to basic services.

Pursuant to the provisions of Article 12 of Law No. 23 of 2014 on Local Government, mandatory government matters related to basic services are:

- education;
- health;
- Public Works and Spatial Planning.
- Public housing and residential areas.
- Peace, public order and community protection.
- social.

As a result, Article 176 of the Employment Creation Law amended Article 8 of Law No. 23 of 2014 on Local Autonomy and added Article 2. No. 23 of 2014 on Local Government. The corrected article looks like this: Sections 16, 250, 251, 252, 260, 300, 349 and 350;

Changes and additions to these articles, none of which have implications for the 6 (six) mandatory local government affairs relating to Basic Services as regulated in Law no. 23 of 2014. However, the implications for mandatory local government affairs related to basic services actually arise from changes to related sectoral laws which are also amended by the Job Creation Law, namely:

- Law Number 28 of 2002 concerning Buildings.

- Law Number 26 of 2007 concerning Spatial Planning.
- Law Number 22 of 2009 concerning Road Transport Traffic.
- Law Number 1 of 2011 concerning Housing and Settlement Areas.
- Law Number 17 of 1999 concerning Water Resources.

4 Conclusion

From the discussion it can be concluded that: The Employment Creation Law amended Article 8 of Law No. 23 Year 2014 on Local Government and was last amended by Law No. 9 Year 2015 on Second Amendment of Law No. 23 Year 2014, adding 2 Articles. Local administration. Amendments and additions to these provisions do not affect the six obligations of local governments relating to basic services as stipulated in Law No. 23 of 2014. The services are actually the result of changes to relevant sector laws, which are also amended by the Jobs Creation Act.

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