



SR1158

LRB101 21442 MST 72094 r

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SENATE RESOLUTION

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WHEREAS, There have been growing concerns that an increasing number of workers in the State of Illinois are being misclassified by their employers, but limited data currently exists to support or abate these concerns; and

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WHEREAS, Employee misclassification creates a host of issues that deny workers in Illinois basic labor standards, including, but not limited to, wage and hour protections, discrimination protections, health and safety standards, workers' compensation, retirement security, and unemployment insurance; and

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WHEREAS, The misclassification of workers also enables unscrupulous employers and hiring entities to gain an unfair advantage over other employers that obey the law and permits such employers to shift the cost of providing benefits, such as a safe workplace, retirement security, and unemployment insurance, to governmental bodies and, ultimately, the taxpayers; and

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WHEREAS, The harms caused by misclassification are only exacerbated in times of economic downturn, such as the current state of the global economy in the wake of the COVID-19 pandemic; and

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1 WHEREAS, The spread of COVID-19 has resulted in
2 unprecedented job loss and an increase in unemployment
3 insurance claims in the State; and

4 WHEREAS, The Department of Employment Security previously
5 adopted the practice of verifying employment classification
6 when processing claims for unemployment insurance benefits;
7 and

8 WHEREAS, Through this process, the Department of
9 Employment Security has the capability of identifying employee
10 misclassification, however, only where workers voluntarily
11 seek regular unemployment benefits from the Department; and

12 WHEREAS, Federal unemployment insurance programs, such as
13 Pandemic Unemployment Assistance, have recently expanded
14 eligibility to workers who were previously ineligible to
15 receive unemployment insurance benefits, including individuals
16 who are self-employed, independent contractors, and sole
17 proprietors; and

18 WHEREAS, Workers who are self-employed, independent
19 contractors, and sole proprietors, and their hiring entities
20 have not traditionally been required to contribute to federal
21 or state unemployment insurance programs; and

1 WHEREAS, The Department of Employment Security is
2 presently receiving and processing claims for unemployment
3 benefits under both the State and federal programs, gaining
4 access to information and data from a larger sample of the
5 workforce in the State, including those thought to be
6 non-employees; and

7 WHEREAS, Absent the Pandemic Unemployment Insurance
8 program providing assistance to workers who are self-employed,
9 independent contractors, or sole proprietors, it is difficult
10 to collect data about this type of employment and earnings;
11 therefore, be it

12 RESOLVED, BY THE SENATE OF THE ONE HUNDRED FIRST GENERAL
13 ASSEMBLY OF THE STATE OF ILLINOIS, that the Department of
14 Employment Security is urged to collect data, where
15 practicable, regarding incidents of employer
16 misclassification, including, but not limited to, job titles,
17 employment industry, wages, hours, and dollar amount of
18 unemployment benefits paid from the state unemployment fund;
19 "Employer misclassification" in this paragraph shall mean a
20 case in which a worker is classified by his or her employer as
21 an independent contractor and paid 1099 wages but is later
22 deemed by IDES to qualify as an employee, based upon the legal
23 standard applicable to State of Illinois unemployment law; and

1 be it further

2 RESOLVED, That the Department of Employment Security is
3 urged to collect data, where practicable, regarding applicants
4 who are found by the Department to qualify for Pandemic
5 Unemployment Assistance as self-employed, independent
6 contractors, and sole proprietors, including, but not limited
7 to, job titles, employment industry, hours, and wages or
8 earnings; and be it further

9 RESOLVED, That such data, to the greatest extent permitted
10 under the law, should be presented in a meaningful and workable
11 electronic format that excludes private and personally
12 identifying information of Unemployment Insurance applicants
13 to be shared with the members of the Senate of the One Hundred
14 First General Assembly of the State of Illinois on or before
15 the last day of the 101st General Assembly; and be it further

16 RESOLVED, That suitable copies of this resolution be
17 delivered to Governor JB Pritzker and Thomas Chan, Acting
18 Director of the Department of Employment Security.