

**93RD GENERAL ASSEMBLY****State of Illinois****2003 and 2004**

Introduced 02/04/04, by Larry McKeon

SYNOPSIS AS INTRODUCED:

New Act

820 ILCS 305/26.1 new

820 ILCS 405/2206.2 new

Creates the Truth in Employment Act. Provides that, if a contractor is a successful bidder for a construction project and purposefully misclassifies one or more of its employees as independent contractors, the contractor is liable to an unsuccessful bidder, or an entity contracting with an unsuccessful bidder (including a labor organization), for damages suffered because the bid was not accepted. Amends the Workers' Compensation Act and the Unemployment Insurance Act by providing that, if the Industrial Commission or the Director of Employment Security enters an order determining that an employer has purposefully misclassified one or more of its employees as independent contractors in violation of the Workers' Compensation Act, the Workers' Occupational Diseases Act, or the Unemployment Insurance Act, the following provisions apply: the Commission or Department may direct the employer to cease its operations, direct the employer to pay \$250 for each day during which the violation continues, and require the employer to continue to pay employees affected by the order for the first 10 days of the order; no licenses or permits of any kind may be issued to the employer by any State agency or officer or any unit of local government nor may any such licenses or permits be renewed by any State agency or officer or any unit of local government until the Commission or Department enters an order determining that an employer has cured the misclassification; and no State agency or officer may enter into any contracts with the employer until 3 years have elapsed since the Commission or Department enters an order determining that an employer has cured the misclassification.

LRB093 20882 WGH 46835 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Truth
5 in Employment Act.

6 Section 5. Definition. As used in this Act, "contractor"
7 means any person who, in any capacity other than as the
8 employee of another for wages as the sole compensation,
9 undertakes to construct, alter, repair, move, wreck, or
10 demolish any fixture or structure. "Contractor" includes a
11 subcontractor, but does not include a person who furnishes only
12 materials or supplies.

13 Section 10. Misclassification of employees as independent
14 contractors; construction projects. If a contractor is a
15 successful bidder for a construction project and purposefully
16 misclassifies one or more of its employees as independent
17 contractors, the contractor is liable to an unsuccessful
18 bidder, or an entity contracting with an unsuccessful bidder
19 (including, but not limited to, a labor organization), for
20 damages suffered by the unsuccessful bidder or entity as a
21 result of the unsuccessful bidder's competitive bid for the
22 construction project not being accepted due to the successful
23 bidder's purposeful misclassification of its employees as
24 independent contractors.

25 Section 90. The Workers' Compensation Act is amended by
26 adding Section 26.1 as follows:

27 (820 ILCS 305/26.1 new)

28 Sec. 26.1. Misclassification of employees as independent
29 contractors. If the Commission enters an order determining that

1 an employer has purposefully misclassified one or more of its
2 employees as independent contractors in violation of this Act
3 or the Workers' Occupational Diseases Act:

4 (1) the Commission may: (i) direct the employer to
5 cease its operations; (ii) direct the employer to pay \$250
6 for each day during which the violation continues; and
7 (iii) require the employer to continue to pay employees
8 affected by the order for the first 10 days of the order;

9 (2) no licenses or permits of any kind may be issued to
10 the employer by any State agency or officer or any unit of
11 local government nor may any such licenses or permits be
12 renewed by any State agency or officer or any unit of local
13 government until the Commission enters an order
14 determining that an employer has cured the
15 misclassification; and

16 (3) no State agency or officer may enter into any
17 contracts with the employer until 3 years have elapsed
18 since the Commission enters an order determining that an
19 employer has cured the misclassification.

20 An order entered under this Section is a final
21 administrative decision that is appealable under the
22 Administrative Review Law.

23 Section 95. The Unemployment Insurance Act is amended by
24 adding Section 2206.2 as follows:

25 (820 ILCS 405/2206.2 new)

26 Sec. 2206.2. Misclassification of employees as independent
27 contractors. If the Director enters an order determining that
28 an employer has purposefully misclassified one or more of its
29 employees as independent contractors in violation of this Act:

30 (1) the Director may: (i) direct the employer to cease
31 its operations; (ii) direct the employer to pay \$250 for
32 each day during which the violation continues; and (iii)
33 require the employer to continue to pay employees affected
34 by the order for the first 10 days of the order;

1 (2) no licenses or permits of any kind may be issued to
2 the employer by any State agency or officer or any unit of
3 local government nor may any such licenses or permits be
4 renewed by any State agency or officer or any unit of local
5 government until the Director enters an order determining
6 that an employer has cured the misclassification; and

7 (3) no State agency or officer may enter into any
8 contracts with the employer until 3 years have elapsed
9 since the Director enters an order determining that an
10 employer has cured the misclassification.

11 An order entered under this Section is a final
12 administrative decision that is appealable under the
13 Administrative Review Law.