

HCS HB 1756 -- EMPLOYEE RECLASSIFICATION ACT

SPONSOR: Bahr

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Employment Security by a vote of 8 to 1. Voted "Do Pass with HCS" by the Select Committee on Labor and Industrial Relations by a vote of 5 to 3.

This bill specifies that for a taxpayer undergoing an audit by the Department of Labor and Industrial Relations regarding classification of an individual as an independent contractor or employee, if the taxpayer has been granted relief from the imposition of federal employment taxes under Section 530 of the federal Revenue Act of 1978, as amended, for an individual, with the result that the taxpayer can continue to classify the individual as an independent contractor for purposes of federal employment taxes, the department must allow the taxpayer to classify the individual as an independent contractor for purposes of Missouri employment taxes. These provisions terminate the employer's liability for the Missouri employment taxes but must have no effect on the worker whose status is at issue.

This bill is similar to HB 461 (2015).

PROPOSERS: Supporters say that this bill helps small businesses by allowing them to classify certain individuals as independent contractors, because the businesses would not have to carry unemployment insurance for these individuals. This bill also gives businesses a sense of certainty that they may continue to classify individuals as independent contractors once they have been given approval by the Department of Labor and Industrial Relations.

Testifying for the bill were Representative Bahr and Dentons US LLP.

OPPOSERS: Those who oppose the bill say that this costs the state money in workers' compensation, and it leaves open the possibility of misclassification. Furthermore, this leaves open the possibility, and potential encouragement, of fraud. One suggestion was to allow businesses to recover some costs of litigating the issue more than once.

Testifying against the bill were Mark Moreland, Missouri Association Of Trial Attorneys; Ken Menges; IBEW1/St. Louis NECA; and Mike Louis.

OTHERS: Others testifying on the bill say this compels the reorganization of criteria for classification, and this does not

solve the actual issue at hand.

Testifying on the bill was David J. Klarich and Riezman Berger, PC.