

# LABOR AND WORKFORCE DEVELOPMENT

## Resolution LWD-17-27

### **A RESOLUTION ON PROTECTION OF WORKERS FROM EMPLOYERS' MISCLASSIFICATION**

WHEREAS, it is important for government to distinguish between an independent contractor and an employee in the United States;

WHEREAS, the Internal Revenue Service (IRS) in the early 1990s began to seriously look for employers who were misclassifying employees as independent contractors;

WHEREAS, in 2011, the IRS and the U.S Department of Labor entered into a Memorandum of Understanding (MOU) in an effort to jointly increase worker misclassification audit;

WHEREAS, the MOU expanded the multi-agency approach in ensuring compliance with federal employment and unemployment tax requirements;

WHEREAS, worker classification initiatives have been a top priority of the IRS, the U.S. Department of Labor and state agencies;

WHEREAS, the distinction between independent contractors and employees is not always clear and continues to evolve;

WHEREAS, employee misclassification allows employers to avoid paying unemployment and other taxes on workers, and from covering workers on compensation and unemployment insurance;

WHEREAS, employers pay taxes on employees but not on an independent contractor, thus misclassification of workers may result in tax evasion;

WHEREAS, businesses must abide by state and federal labor laws, including minimum wage and over-time laws for their employees;

WHEREAS, misclassification of workers has serious consequences for state and federal governments, and deprives the state and federal government of properly due revenue, including income, Social Security, Medicare and unemployment taxes that are needed to pay for public services and benefits such as unemployment insurance; and

WHEREAS, in July 2015, the U.S. Department of Labor issued new guidelines on the misclassification of employees as independent contractors.

THEREFORE, BE IT RESOLVED, that the National Black Caucus of State Legislators (NBCSL) encourage and support federal and state legislation and initiatives investigate the intentional misclassification of workers;

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BE IT FURTHER RESOLVED, that NBCSL encourage and support federal and state legislation, and initiatives that penalizes employers who intentionally misclassify workers depriving the federal and state government from receiving the much-needed revenue to pay for public services and benefits such as unemployment insurance;

BE IT FURTHER RESOLVED, that NBCSL supports President Obama's 2017 budget request to include \$10 million in funding to revive a DOL grant program to help states combat worker misclassification;

BE IT FURTHER RESOLVED, that NBCSL encourage and support the U.S. Department of Labor to continue to sign MOUs with states that enables the federal government and state government to share information and to coordinate enforcement efforts to ensure that employees receive the protections to which they are entitled under Federal and State Law.

BE IT FINALLY RESOLVED, that a copy of this resolution be transmitted to the President of the United States, the Vice President of the United States, members of the United States House of Representatives, and the United States Senate, other federal and state government officials as appropriate.

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SPONSOR: Senator Ron Rice (NJ)

Committee of Jurisdiction: Labor and Workforce Development Policy Committee

Certified by Committee Co-Chair: Senator Ron Rice (NJ)

Ratified in Plenary Session: Ratification Date is December 3, 2016

Ratification is certified by: Senator Catherine Pugh (MD), President