

Senate Resolution 11

By: Senators Jackson of the 2nd, Henson of the 41st, Fort of the 39th, Parent of the 42nd, Jones of the 10th and others

A RESOLUTION

- 1 Creating the Senate Study Committee on Employee Misclassification; and for other purposes.
- 2 WHEREAS, employee misclassification occurs when an employer classifies employees as
3 independent contractors or pays the employees "off the books" or in cash; and
- 4 WHEREAS, employers who misclassify their employees do not pay unemployment
5 insurance premiums and typically either do not have workers' compensation coverage or pay
6 substantially lower premiums because of fraudulent underreporting of payroll or
7 misrepresenting the number of employees or the type of work performed; and
- 8 WHEREAS, noncompliant employers do not deduct federal taxes, such as income tax, Social
9 Security, and medicare, from their employees' pay and do not pay overtime as required by
10 the federal Fair Labor Standards Act, creating an unfair competitive advantage over
11 employers that do comply with federal and state employment and tax laws; and
- 12 WHEREAS, in many instances, the behavior is deliberate and constitutes insurance and tax
13 fraud and harms honest employers, mistreats workers, and costs the federal and state
14 treasuries uncollected revenue; and
- 15 WHEREAS, in particular, there is a need to evaluate:
- 16 (1) The impact of employee misclassification on this state and local governments of this
17 state and the amount of state revenue, if any, that is lost or not collected due to employee
18 misclassification;
- 19 (2) The lost earnings of the insurance industry due to employee misclassification;
- 20 (3) The estimates of the frequency of occurrence and economic impact of employee
21 misclassification and whether particular industries, such as the construction industry, film
22 industry, and shipping industry, are more likely to engage in the misclassification of
23 employees;

- 24 (4) Whether state law should specify a uniform definition of the employment relationship
 25 and, if so, how it should be defined;
- 26 (5) The effectiveness of existing Georgia laws aimed at preventing, investigating, and
 27 taking enforcement action against the failure of employers to properly classify individuals
 28 as employees;
- 29 (6) Whether there are ways to facilitate the sharing of information among state agencies
 30 relative to violations of laws by employers that fail to classify individuals as employees;
- 31 (7) Whether there are ways to pool, focus, and target investigative and enforcement
 32 resources relative to employee misclassification;
- 33 (8) New strategies for systematically investigating the failure of employers to properly
 34 classify individuals as employees;
- 35 (9) Whether improvements are needed to facilitate the filing of complaints and identify
 36 potential violators, including, but not limited to, soliciting referrals and other relevant
 37 information from the public;
- 38 (10) Changes in the law, if any, that need to be made in order to ensure that state
 39 agencies investigating the failure of employers to properly classify individuals as
 40 employees under their own statutory or administrative enforcement mechanism have the
 41 authority to refer a matter to other participating agencies for assessment of potential
 42 liability under the other agencies' relevant statutory or administrative enforcement
 43 mechanisms;
- 44 (11) Innovative ways to prevent misclassification of employees by employers, such as
 45 through disseminating educational materials regarding the legal differences between
 46 independent contractors and employees;
- 47 (12) Methods to increase public awareness of the illegal nature of and harms inflicted by
 48 the failure of employers to properly classify individuals as employees; and
- 49 (13) Any other issues relative to employee misclassification in this state.

50 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE:

- 51 (1) **Creation of Senate study committee.** There is created the Senate Study Committee
 52 on Employee Misclassification.
- 53 (2) **Members and officers.** The committee shall be composed of seven members of the
 54 Senate. Three members shall be appointed by the President of the Senate. Three
 55 members of the minority caucus shall be appointed by the Senate Minority Leader. The
 56 chairperson of the Senate Insurance and Labor Committee shall serve as a member of the
 57 committee and shall serve as the chairperson of the committee.

58 (3) **Powers and duties.** The committee shall undertake a study of the conditions, needs,
59 issues, and problems mentioned above or related thereto and recommend any action or
60 legislation which the committee deems necessary or appropriate.

61 (4) **Meetings.** The chairperson shall call all meetings of the committee. The committee
62 may conduct such meetings at such places and at such times as it may deem necessary or
63 convenient to enable it to exercise fully and effectively its powers, perform its duties, and
64 accomplish the objectives and purposes of this resolution.

65 (5) **Allowances and funding.**

66 (A) The legislative members of the committee shall receive the allowances provided
67 for in Code Section 28-1-8 of the Official Code of Georgia Annotated.

68 (B) The allowances authorized by this resolution shall not be received by any member
69 of the committee for more than five days unless additional days are authorized. Funds
70 necessary to carry out the provisions of this resolution shall come from funds
71 appropriated to the Senate.

72 (6) **Report.**

73 (A) In the event the committee adopts any specific findings or recommendations that
74 include suggestions for proposed legislation, the chairperson shall file a report of the
75 same prior to the date of abolishment specified in this resolution, subject to
76 subparagraph (C) of this paragraph.

77 (B) In the event the committee adopts a report that does not include suggestions for
78 proposed legislation, the chairperson shall file the report, subject to subparagraph (C)
79 of this paragraph.

80 (C) No report shall be filed unless the same has been approved prior to the date of
81 abolishment specified in this resolution by majority vote of a quorum of the committee.
82 A report so approved shall be signed by the chairperson of the committee and filed with
83 the Secretary of the Senate.

84 (D) In the absence of an approved report, the chairperson may file with the Secretary
85 of the Senate a copy of the minutes of the meetings of the committee in lieu thereof.

86 (7) **Abolishment.** The committee shall stand abolished on December 1, 2015.