
HOUSE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY
ON STRENGTHENING LABOR PROTECTIONS FOR GIG WORKERS IN THE
STATE.

1 WHEREAS, in 2017, the United States Bureau of Labor
2 Statistics stated that about ten percent of the national
3 workforce, or more than fifteen million people, worked in some
4 manner as an independent contractor, also known as a gig worker;
5 and

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7 WHEREAS, the Pew Research Center found that sixteen percent
8 of Americans were earning money from online gig work in 2021
9 during the coronavirus disease pandemic in positions like
10 ridesharing drivers, delivery service employees, or home
11 cleaners; and

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13 WHEREAS, a professor of labor and employment relations at
14 Pennsylvania State University, told TIME Magazine that "most
15 employment and labor laws were written half a century to a
16 century ago and didn't anticipate the rise of the gig economy";
17 and

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19 WHEREAS, in the fall of 2022, the United States Department
20 of Labor published a proposal to rescind a prior rule that
21 lowered the bar for classifying employees as contractors and
22 require employers to consider whether an employee's work is an
23 integral part of their business and direct employers to use the
24 totality of criteria historically used to determine whether a
25 worker is a truly independent contractor under the following
26 criteria:

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28 (1) The extent to which the services rendered are an
29 integral part of the principal's business;
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31 (2) The permanency of the relationship;
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H.R. NO. 52

- 1 (3) The amount of the alleged contractor's investment in
2 facilities and equipment;
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- 4 (4) The nature and degree of control by the principal;
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- 6 (5) The alleged contractor's opportunities for profit and
7 loss;
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- 9 (6) The amount of initiative, judgment, or foresight in
10 open market competition with others required for the
11 success of the claimed independent contractor; and
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- 13 (7) The degree of independent business organization and
14 operation; and
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16 WHEREAS, in 2019, California adopted Assembly Bill No. 5,
17 which protects workers from misclassification as independent
18 contractors, or gig workers, by applying the "ABC" tests used by
19 courts to determine employee status; and
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21 WHEREAS, under the California law, workers can only be
22 classified as independent contractors, or gig workers, if they
23 are free from control and direction by the hiring company;
24 perform work outside the usual course of business of the hiring
25 entity; and are independently established by trade, occupation,
26 or business; and
27

28 WHEREAS, when millions of workers are misclassified,
29 companies avoid paying their share of social security, Medicare,
30 and unemployment taxes, as well as state workers' compensation
31 insurance; and
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33 WHEREAS, gig workers are attractive to employers because
34 gig workers are excluded from the right to collectively bargain,
35 which the United Nations has declared to be a fundamental human
36 right for all workers; now, therefore,
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38 BE IT RESOLVED by the House of Representatives of the
39 Thirty-second Legislature of the State of Hawaii, Regular
40 Session of 2023, that the Legislative Reference Bureau is
41 requested to conduct a study on what steps the State can take to
42 strengthen labor protections for gig workers; and



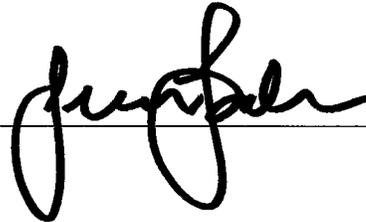
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BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to consider the provisions of Assembly Bill No. 5, 2019, from California; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to submit a report of its findings and recommendations, including any proposed legislation, to the Legislature, no later than twenty days prior to the convening of the Regular Session of 2024; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Governor, Lieutenant Governor, Director of Labor and Industrial Relations, and Director of the Legislative Reference Bureau.

OFFERED BY:



MAR - 8 2023

