
HOUSE CONCURRENT 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:

- 27
28 (1) The extent to which the services rendered are an
29 integral part of the principal's business;
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- 1 (2) The permanency of the relationship;
- 2
- 3 (3) The amount of the alleged contractor's investment in
- 4 facilities and equipment;
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- 6 (4) The nature and degree of control by the principal;
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- 8 (5) The alleged contractor's opportunities for profit and
- 9 loss;
- 10
- 11 (6) The amount of initiative, judgment, or foresight in
- 12 open market competition with others required for the
- 13 success of the claimed independent contractor; and
- 14
- 15 (7) The degree of independent business organization and
- 16 operation; and
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18 WHEREAS, in 2019, California adopted Assembly Bill No. 5,
19 which protects workers from misclassification as independent
20 contractors, or gig workers, by applying the "ABC" tests used by
21 courts to determine employee status; and

22

23 WHEREAS, under the California law, workers can only be
24 classified as independent contractors, or gig workers, if they
25 are free from control and direction by the hiring company;
26 perform work outside the usual course of business of the hiring
27 entity; and are independently established by trade, occupation,
28 or business; and

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30 WHEREAS, when millions of workers are misclassified,
31 companies avoid paying their share of social security, Medicare,
32 and unemployment taxes, as well as state workers' compensation
33 insurance; and

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35 WHEREAS, gig workers are attractive to employers because
36 gig workers are excluded from the right to collectively bargain,
37 which the United Nations has declared to be a fundamental human
38 right for all workers; now, therefore,

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40 BE IT RESOLVED by the House of Representatives of the
41 Thirty-second Legislature of the State of Hawaii, Regular
42 Session of 2023, the Senate concurring, that the Legislative



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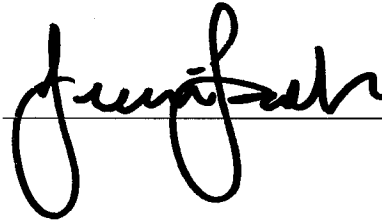
1 Reference Bureau is requested to conduct a study on what steps
2 the State can take to strengthen labor protections for gig
3 workers; and
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5 BE IT FURTHER RESOLVED that the Legislative Reference
6 Bureau is requested to consider the provisions of Assembly Bill
7 No. 5, 2019, from California; and
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9 BE IT FURTHER RESOLVED that the Legislative Reference
10 Bureau is requested to submit a report of its findings and
11 recommendations, including any proposed legislation, to the
12 Legislature, no later than twenty days prior to the convening of
13 the Regular Session of 2024; and
14

15 BE IT FURTHER RESOLVED that certified copies of this
16 Concurrent Resolution be transmitted to the Governor, Lieutenant
17 Governor, Director of Labor and Industrial Relations, and
18 Director of the Legislative Reference Bureau.
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OFFERED BY:



MAR - 8 2023

