

REFERENCE TITLE: **misclassification; tax fraud; task force**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2265

Introduced by
Representatives Andrade: Cano, DeGrazia, Powers Hannley, Solorio

AN ACT

**AMENDING TITLE 23, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 23-1605; RELATING TO EMPLOYMENT RELATIONSHIPS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 10, article 1, Arizona Revised
3 Statutes, is amended by adding section 23-1605, to read:

4 23-1605. Employee misclassification and payroll tax fraud
5 advisory task force; membership; duties; annual
6 report

7 A. THE EMPLOYEE MISCLASSIFICATION AND PAYROLL TAX FRAUD ADVISORY
8 TASK FORCE IS ESTABLISHED TO STUDY AND MAKE RECOMMENDATIONS REGARDING
9 ISSUES RELATING TO EMPLOYEE MISCLASSIFICATION AND PAYROLL TAX FRAUD IN THE
10 CONSTRUCTION INDUSTRY. THE TASK FORCE SHALL CONSIST OF THE FOLLOWING
11 MEMBERS:

12 1. THE DIRECTOR OF THE INDUSTRIAL COMMISSION OF ARIZONA OR THE
13 DIRECTOR'S DESIGNEE.

14 2. THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND FINANCIAL
15 INSTITUTIONS OR THE DIRECTOR'S DESIGNEE.

16 3. THE REGISTRAR OF CONTRACTORS OR THE REGISTRAR'S DESIGNEE.

17 4. AS NONVOTING ADVISORY MEMBERS:

18 (a) THE SECRETARY OF STATE OR THE SECRETARY OF STATE'S DESIGNEE.

19 (b) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE.

20 B. THE TASK FORCE MAY APPOINT ADDITIONAL NONVOTING ADVISORY MEMBERS
21 AS THE TASK FORCE DEEMS APPROPRIATE.

22 C. ON OR BEFORE FEBRUARY 1, 2023, THE DIRECTOR OF THE INDUSTRIAL
23 COMMISSION OF ARIZONA SHALL CONVENE THE FIRST MEETING OF THE TASK FORCE.
24 AT THE FIRST MEETING, THE TASK FORCE SHALL ELECT A CHAIRPERSON AND ANY
25 OTHER OFFICERS THE TASK FORCE DEEMS APPROPRIATE FROM THE TASK FORCE'S
26 VOTING MEMBERSHIP. ADVISORY MEMBERS ARE NOT COUNTED TO DETERMINE THE
27 PRESENCE OF A QUORUM.

28 D. THE TASK FORCE SHALL STUDY ISSUES RELATING TO EMPLOYEE
29 MISCLASSIFICATION AND PAYROLL TAX FRAUD IN THE CONSTRUCTION INDUSTRY,
30 INCLUDING:

31 1. THE IMPACT OF EMPLOYEE MISCLASSIFICATION AND PAYROLL TAX FRAUD
32 ON THIS STATE AND LOCAL GOVERNMENTS OF THIS STATE AND THE AMOUNT OF STATE
33 REVENUE, IF ANY, THAT IS LOST OR NOT COLLECTED DUE TO EMPLOYEE
34 MISCLASSIFICATION AND PAYROLL TAX FRAUD.

35 2. THE LOST EARNINGS OF THE INSURANCE INDUSTRY DUE TO EMPLOYEE
36 MISCLASSIFICATION AND PAYROLL TAX FRAUD.

37 3. THE ESTIMATES OF THE FREQUENCY OF OCCURRENCE AND ECONOMIC IMPACT
38 OF EMPLOYEE MISCLASSIFICATION AND PAYROLL TAX FRAUD AND WHETHER PARTICULAR
39 INDUSTRIES ARE MORE LIKELY TO ENGAGE IN THE MISCLASSIFICATION OF EMPLOYEES
40 AND PAYROLL TAX FRAUD PRACTICES.

41 4. WHETHER STATE LAW SHOULD SPECIFY A UNIFORM DEFINITION OF THE
42 EMPLOYMENT RELATIONSHIP AND, IF SO, HOW IT SHOULD BE DEFINED.

43 5. WHETHER EXISTING LAWS OF THIS STATE AIMED AT PREVENTING,
44 INVESTIGATING AND TAKING ENFORCEMENT ACTION AGAINST THE FAILURE OF

1 EMPLOYERS TO PROPERLY CLASSIFY INDIVIDUALS AS EMPLOYEES OR INVESTIGATING
2 PAYROLL TAX FRAUD ARE EFFECTIVE.

3 6. WHETHER THERE ARE WAYS TO FACILITATE SHARING INFORMATION AMONG
4 AGENCIES REPRESENTED BY TASK FORCE MEMBERS RELATING TO VIOLATIONS OF LAWS
5 BY EMPLOYERS THAT FAIL TO CLASSIFY INDIVIDUALS AS EMPLOYEES AND THAT
6 ENGAGE IN RELATED PAYROLL TAX FRAUD PRACTICES.

7 7. WHETHER THERE ARE NEW WAYS TO POOL, FOCUS AND TARGET
8 INVESTIGATIVE AND ENFORCEMENT RESOURCES RELATING TO EMPLOYEE
9 MISCLASSIFICATION AND PAYROLL TAX FRAUD PRACTICES.

10 8. NEW STRATEGIES FOR SYSTEMATICALLY INVESTIGATING THE FAILURE OF
11 EMPLOYERS TO PROPERLY CLASSIFY INDIVIDUALS AS EMPLOYEES AND PAYROLL TAX
12 FRAUD PRACTICES.

13 9. WHETHER IMPROVEMENTS ARE NEEDED TO FACILITATE FILING COMPLAINTS
14 AND IDENTIFYING POTENTIAL VIOLATORS, INCLUDING SOLICITING REFERRALS AND
15 OTHER RELEVANT INFORMATION FROM THE PUBLIC.

16 10. CHANGES IN THE LAW, IF ANY, THAT NEED TO BE MADE TO ENSURE THAT
17 AGENCIES REPRESENTED BY TASK FORCE MEMBERS INVESTIGATING THE FAILURE OF
18 EMPLOYERS TO PROPERLY CLASSIFY INDIVIDUALS AS EMPLOYEES AND PAYROLL TAX
19 FRAUD PRACTICES UNDER THEIR OWN STATUTORY OR ADMINISTRATIVE ENFORCEMENT
20 MECHANISMS HAVE THE AUTHORITY TO REFER A MATTER TO OTHER PARTICIPATING
21 AGENCIES TO ASSESS POTENTIAL LIABILITY UNDER THE OTHER AGENCIES' RELEVANT
22 STATUTORY OR ADMINISTRATIVE ENFORCEMENT MECHANISMS.

23 11. INNOVATIVE WAYS TO PREVENT MISCLASSIFICATION OF EMPLOYEES BY
24 EMPLOYERS AND PAYROLL TAX FRAUD PRACTICES, SUCH AS THROUGH DISSEMINATING
25 EDUCATIONAL MATERIALS REGARDING THE LEGAL DIFFERENCES BETWEEN INDEPENDENT
26 CONTRACTORS AND EMPLOYEES.

27 12. METHODS BY WHICH PUBLIC AWARENESS CAN BE INCREASED OF THE
28 ILLEGAL NATURE AND HARMS INFLICTED BY THE FAILURE OF EMPLOYERS TO PROPERLY
29 CLASSIFY INDIVIDUALS AS EMPLOYEES AND PAYROLL TAX FRAUD PRACTICES.

30 13. ANY OTHER ISSUES RELATING TO EMPLOYEE MISCLASSIFICATION AND
31 PAYROLL TAX FRAUD PRACTICES IN THE CONSTRUCTION INDUSTRY.

32 E. THE TASK FORCE SHALL SEEK PUBLIC INPUT AND MAY CONDUCT PUBLIC
33 HEARINGS OR APPOINT STUDY GROUPS AS NECESSARY TO OBTAIN INFORMATION
34 NECESSARY TO CONDUCT THE TASK FORCE'S STUDY.

35 F. ON OR BEFORE FEBRUARY 1, 2024, AND ON OR BEFORE FEBRUARY 1
36 ANNUALLY THEREAFTER, THE TASK FORCE SHALL SUBMIT A REPORT ON ITS FINDINGS
37 AND PROGRESS TO THE SENATE COMMERCE COMMITTEE AND THE HOUSE OF
38 REPRESENTATIVES COMMERCE COMMITTEE, OR THEIR SUCCESSOR COMMITTEES. THE
39 TASK FORCE SHALL SUBMIT A COPY OF THE ANNUAL REPORT TO THE SECRETARY OF
40 STATE.

41 G. TO THE EXTENT ALLOWED BY LAW, EVERY AGENCY, DEPARTMENT, OFFICE
42 AND DIVISION OF THIS STATE SHALL COOPERATE WITH THE TASK FORCE AND FURNISH
43 ANY INFORMATION THAT THE TASK FORCE DETERMINES IS REASONABLY NECESSARY TO
44 ACCOMPLISH THE TASK FORCE'S PURPOSES.

1 H. THE INDUSTRIAL COMMISSION OF ARIZONA, THE DEPARTMENT OF
2 INSURANCE AND FINANCIAL INSTITUTIONS AND THE REGISTRAR OF CONTRACTORS MAY
3 INDIVIDUALLY IMPLEMENT RECOMMENDATIONS OF THE TASK FORCE IF THE
4 IMPLEMENTATION IS AUTHORIZED UNDER THE EXISTING STATUTORY AUTHORITY OF THE
5 RESPECTIVE AGENCY.