

2020 Second Extraordinary Session

SENATE RESOLUTION NO. 22

BY SENATOR LUNEAU

REVENUE DEPARTMENT. Requests the Department of Revenue to create a task force to study and make recommendations to minimize employee misclassification.

A RESOLUTION

To urge and request the Department of Revenue to create a task force to study and make recommendations for changes to state laws in an effort to provide the necessary investigatory and enforcement tools to detect, investigate, and eliminate employee misclassification in Louisiana.

WHEREAS, the legislature hereby finds that the misclassification of employees is a serious problem in Louisiana that substantially reduces revenues otherwise due to state and local government; and

WHEREAS, the misclassification of employees denies misclassified employees important protections and benefits such as minimum wage, sick leave, and unemployment benefits as well as reduced access to workers' compensation; and

WHEREAS, misclassification of employees creates an unfair competitive disadvantage to Louisiana businesses that properly classify their employees and contractors; and

WHEREAS, the legislature declares that the misclassification of employees is contrary to the public policy of this state; and

WHEREAS, the Department of Revenue and the Louisiana Workforce Commission have worked collaboratively to audit and recover unpaid withholding and unemployment

1 insurance taxes resulting from misclassification of employees; and

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3 WHEREAS, the Legislative Auditor issued a Performance Audit in June 2019 on the  
4 "Detection and Prevention of Worker Misclassification" and offered several legislative  
5 recommendations pertaining to the Louisiana Workforce Commission; and

6 WHEREAS, the laws regulating the classification of employees and the necessary  
7 investigatory and enforcement tools of the administering state agencies should be carefully  
8 reviewed to determine the necessary revisions to further equip state agencies to detect,  
9 investigate, and eliminate employee misclassification in this state.

10 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana  
11 does hereby urge and request the Department of Revenue to work in collaboration with the  
12 Louisiana Workforce Commission to create a task force to study and make recommendations  
13 for changes to state laws in an effort to provide the necessary investigatory and enforcement  
14 tools to detect, investigate, and minimize employee misclassification in Louisiana, hereafter  
15 referred to as the "task force".

16 BE IT FURTHER RESOLVED that the task force shall be comprised of the  
17 following:

18 (1) The secretary of the Department of Revenue or her designee.

19 (2) The assistant secretary of the Office of Legal Affairs, Department of Revenue or  
20 his designee.

21 (3) The secretary of the Louisiana Workforce Commission or her designee.

22 (4) The assistant secretary of the Office of Unemployment Insurance Administration,  
23 Louisiana Workforce Commission or his designee.

24 (5) The assistant secretary of the Office of Workers' Compensation Administration,  
25 Louisiana Workforce Commission or his designee.

26 (6) The legislative auditor or his designee.

27 (7) A member appointed by the Society of Louisiana Certified Public Accountants.

28 (8) A member appointed by the Taxation Section of the Louisiana State Bar  
29 Association.

30 (9) A member appointed by the National Federation of Independent Business.

1 (10) A member appointed by the American Payroll Association.

2 (11) A member appointed by the National Payroll Reporting Consortium.

3 (12) A member appointed by the Louisiana Association of Business and Industry.

4 BE IT FURTHER RESOLVED that the Department of Revenue shall provide staff  
5 support to the task force through existing personnel within the department.

6 BE IT FURTHER RESOLVED that the secretary of the Department of Revenue or  
7 her designee shall convene the task force for an initial meeting no later than November 13,  
8 2020, and the members shall elect a chairman, vice chairman, and other officers as they may  
9 deem appropriate. A majority of the membership of the task force shall constitute a quorum.

10 BE IT FURTHER RESOLVED that members of the task force shall receive no  
11 compensation for their services or expenses.

12 BE IT FURTHER RESOLVED that the task force is authorized to meet exclusively  
13 through remote means provided that all meetings otherwise conform to the requirements of  
14 the Open Meetings Law.

15 BE IT FURTHER RESOLVED that the task force shall hold meetings to receive  
16 testimony from interested taxpayers, stakeholders, and organizations; review current  
17 initiatives of the administering state agencies responsible for collecting any tax or fee that  
18 may be diminished due to misclassification of employees; review measures enacted by other  
19 states to address misclassification of employees; review current state laws regulating the  
20 classification of employees and the related investigatory and enforcement tools of the  
21 administering state agencies; and consider any other items related to misclassification of  
22 employees.

23 BE IT FURTHER RESOLVED that the task force shall prepare and submit a final  
24 report that contains a detailed statement of the findings and policy recommendations,  
25 including any proposed legislation, to the Senate Committee on Revenue and Fiscal Affairs,  
26 the House Committee on Ways and Means, the Senate Committee on Labor and Industrial  
27 Relations, and the House Committee on Labor and Industrial Relations no later than  
28 March 1, 2021.

29 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the  
30 secretary of the Department of Revenue and the secretary of the Louisiana Workforce

1 Commission.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

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DIGEST

SR 22 Original

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Luneau

Requests the Department of Revenue to create a task force to study and make recommendations to minimize employee misclassification and to submit a report of the task force's findings and recommendations to the Senate Committee on Revenue and Fiscal Affairs, the House Committee on Ways and Means, and the Senate and House committees on labor and industrial relations no later than March 1, 2021.