

HB 356 -- EMPLOYEE RECLASSIFICATION ACT

SPONSOR: Bahr

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Workforce Development by a vote of 7 to 3. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 10 to 4.

This bill specifies that for a taxpayer undergoing an audit by the Department of Labor and Industrial Relations regarding classification of an individual as an independent contractor or employee, if the taxpayer has been granted relief from the imposition of federal employment taxes under Section 530 of the federal Revenue Act of 1978, as amended, for an individual, with the result that the taxpayer can continue to classify the individual as an independent contractor for purposes of federal employment taxes, the department must allow the taxpayer to classify the individual as an independent contractor for purposes of Missouri employment taxes with a maximum rate of 1%.

This bill is the same as HB 1756 (2016) and is similar to HB 461 (2015).

PROPONENTS: Supporters say that the bill will require the state to recognize the IRS Section 530 "safe harbor" for employers if the IRS determines after an audit that alleged misclassified independent contractors may remain classified as independent contractors and not employees.

Testifying for the bill was Representative Bahr.

OPPONENTS: Those who oppose the bill say that this bill will allow some businesses to not pay their fair share of the state unemployment tax if the business has misclassified employees as independent contractors; and that it may bring the state out of compliance with federal law resulting in a loss of Federal Unemployment (FUTA) tax credits for Missouri employers.

Testifying against the bill were the United Parcel Service and the Missouri Chamber Of Commerce and Industry.