

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

HOUSE BILL 1839

4
5 By: Representative Nickels

For An Act To Be Entitled

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8 AN ACT TO AUTHORIZE INTERAGENCY AGREEMENTS TO ADDRESS
9 THE PROBLEM OF MISCLASSIFYING EMPLOYEES AS
10 INDEPENDENT CONTRACTORS; TO INDIRECTLY AMEND THE
11 WORKERS' COMPENSATION LAW THAT WAS ENACTED BY
12 INITIATED ACT 4 OF 1948; AND FOR OTHER PURPOSES.

Subtitle

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16 AN ACT TO AUTHORIZE INTERAGENCY
17 AGREEMENTS TO ADDRESS THE PROBLEM OF
18 MISCLASSIFYING EMPLOYEES AS INDEPENDENT
19 CONTRACTORS AND TO INDIRECTLY AMEND
20 INITIATED ACT 4 OF 1948.

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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. NOT TO BE CODIFIED. (a) It is the intent of the General
26 Assembly that state agencies cooperate for the purpose of addressing the
27 problems associated with misclassifying employees as independent contractors.

28 (b) The General Assembly finds that the misclassification of employees
29 as independent contractors may result in the nonpayment of unemployment
30 taxes, the failure to provide required workers' compensation, and the failure
31 to pay minimum wage.

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33 SECTION 2. Arkansas Code Title 11, Chapter 1, is amended to add an
34 additional subchapter to read as follows:

35 Subchapter 1 – InterAgency Agreements
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1 11-1-101. Interagency agreement required.

2 (a) The Department of Workforce Services, the Arkansas Workers'
3 Compensation Commission, and the Department of Labor shall enter into an
4 interagency agreement for the purpose of providing assistance and cooperation
5 in the administration and enforcement of state laws related to the
6 misclassification of employees as independent contractors.

7 (b) An inter-agency agreement under this subchapter shall:

8 (1) Provide for the sharing of information to the extent not
9 otherwise prohibited by state or federal law;

10 (2) Establish procedures and protocols for the sharing of
11 information to the extent not otherwise prohibited by state or federal law;
12 and

13 (3) Provide other assistance or cooperation among the three (3)
14 agencies as the three (3) agencies may deem advisable.

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16 11-1-102. Agreements with other government agencies.

17 The Department of Workforce Services, the Workers' Compensation
18 Commission, and the Department of Labor may enter into agreements with other
19 governmental agencies for the purposes of providing assistance and
20 cooperation in the administration and enforcement of laws related to the
21 misclassification of employees as independent contractors.

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23 11-1-103. Release of information.

24 (a) Notwithstanding any provision of the Workers' Compensation Law, §
25 11-9-101 et seq., the Department of Workforce Services and the Workers'
26 Compensation Commission shall enter into an interagency agreement to create
27 procedures under which the Workers' Compensation Commission shall provide the
28 Department of Workforce Services with information requested under subsection
29 (b) of this section.

30 (b) The Department of Workforce Services may request information
31 regarding a purported employer from the Workers' Compensation Commission if:

32 (1) The Department of Workforce Services receives an application
33 for unemployment benefits;

34 (2) The person or entity purported in the application to be the
35 employer of the applicant has not paid unemployment contributions; and

36 (3) The Department of Workforce Services is unable to determine

1 whether the purported employer is an employer under the Department of
 2 Workforce Services Law, § 11-10-101 et seq.

3 (c) Except as required under this section, information provided by the
 4 Workers' Compensation Commission under this section is confidential and shall
 5 not be disclosed.

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 7 11-1-104. Costs.

8 The Department of Workforce Services, the Workers' Compensation
 9 Commission, and the Department of Labor shall each bear its own costs
 10 relative to any duties established under the interagency agreement required
 11 under this subchapter.

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 13 11-1-105. Reports.

14 The Department of Workforce Services, the Arkansas Workers'
 15 Compensation Commission, and the Department of Labor shall report at least
 16 semi-annually to the Legislative Council regarding the implementation of this
 17 subchapter.

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