

1 **WORKER CLASSIFICATION COORDINATED ENFORCEMENT**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Mayne**

5 House Sponsor: Todd E. Kiser

6 Cosponsor: John L. Valentine

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies labor provisions to address worker classification and related issues of
11 enforcement.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ changes the Independent Contractor Database Enforcement Council to the Worker
15 Classification Coordinated Enforcement Council, including:

- 16 • addressing membership;
 - 17 • modifying the duties of the council; and
 - 18 • addressing the sharing of information; and
- 19 ▶ makes technical and conforming amendments.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides an immediate effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **63I-1-213**, as last amended by Laws of Utah 2008, Chapter 273 and renumbered and
27 amended by Laws of Utah 2008, Chapter 382

28 **63I-1-234**, as last amended by Laws of Utah 2010, Chapter 319

29 ENACTS:

- 30 **34-47-101**, Utah Code Annotated 1953
- 31 **34-47-102**, Utah Code Annotated 1953
- 32 **34-47-201**, Utah Code Annotated 1953
- 33 **34-47-202**, Utah Code Annotated 1953

34 REPEALS:

- 35 **13-46-101**, as enacted by Laws of Utah 2008, Chapter 273
- 36 **13-46-102**, as enacted by Laws of Utah 2008, Chapter 273
- 37 **13-46-103**, as enacted by Laws of Utah 2008, Chapter 273
- 38 **13-46-201**, as enacted by Laws of Utah 2008, Chapter 273
- 39 **13-46-202**, as enacted by Laws of Utah 2008, Chapter 273
- 40 **13-46-301**, as enacted by Laws of Utah 2008, Chapter 273
- 41 **13-46-302**, as enacted by Laws of Utah 2008, Chapter 273
- 42 **13-46-303**, as enacted by Laws of Utah 2008, Chapter 273

44 *Be it enacted by the Legislature of the state of Utah:*

45 Section 1. Section **34-47-101** is enacted to read:

46 **CHAPTER 47. WORKER CLASSIFICATION COORDINATED**

47 **ENFORCEMENT ACT**

48 **Part 1. General Provisions**

49 **34-47-101. Title.**

50 This chapter is known as the "Worker Classification Coordinated Enforcement Act."

51 Section 2. Section **34-47-102** is enacted to read:

52 **34-47-102. Definitions.**

53 As used in this chapter:

54 (1) "Commission" means the Labor Commission.

55 (2) "Commissioner" means the commissioner of the Labor Commission.

56 (3) "Council" means the Worker Classification Coordinated Enforcement Council

57 created in Section 34-47-201.

- 58 (4) "Member agency" means an agency that is represented on the council.
- 59 (5) "Misclassification" means to classify an individual as something other than an
- 60 employee, if under the relevant law the individual is required to be classified as an employee.

61 Section 3. Section **34-47-201** is enacted to read:

62 **Part 2. Worker Classification Coordinated Enforcement Council**

63 **34-47-201. Creation.**

64 (1) (a) There is created within the commission the Worker Classification Coordinated

65 Enforcement Council consisting of the following four members:

- 66 (i) the commissioner, or the commissioner's designee;
- 67 (ii) the executive director of the Department of Commerce, or the executive director's
- 68 designee;
- 69 (iii) the executive director of the Department of Workforce Services, or the executive
- 70 director's designee; and

71 (iv) the chair of the State Tax Commission, or the chair's designee.

72 (b) The Office of the Attorney General shall work cooperatively with the council.

73 (2) The commissioner, or the commissioner's designee, is chair of the council.

74 (3) (a) A majority of the council members constitutes a quorum.

75 (b) A vote of the majority of the council members present when a quorum is present is

76 an action of the council.

77 (c) Subject to Section 34-47-202, the council shall meet at the call of the chair, except

78 that the chair shall call a meeting at least quarterly.

79 (d) The council may adopt additional procedures or requirements for:

- 80 (i) voting, when there is a tie of the council members;
- 81 (ii) how meetings are to be called; and
- 82 (iii) the frequency of meetings.

83 Section 4. Section **34-47-202** is enacted to read:

84 **34-47-202. Duties and powers of the council.**

85 (1) The council shall meet at least quarterly with the attorney general or a designee of

86 the attorney general to coordinate regulatory and law enforcement efforts related to
87 misclassification.

88 (2) (a) The council shall report by no later than November 30 of each year to:

89 (i) the governor; and

90 (ii) the Business and Labor Interim Committee.

91 (b) The report required by this Subsection (2) shall include:

92 (i) the nature and extent of misclassification in this state;

93 (ii) the results of regulatory and law enforcement efforts related to the council;

94 (iii) the status of sharing information by member agencies; and

95 (iv) recommended legislative changes, if any.

96 (c) As part of the report required by this Subsection (2), the chairs of the Business and

97 Labor Interim Committee shall provide an opportunity to the following to report to the

98 Business and Labor Interim Committee on the effectiveness of the council:

99 (i) the attorney general; and

100 (ii) each member agency.

101 (3) The council may study:

102 (a) how to reduce costs to the state resulting from misclassification;

103 (b) how to extend outreach and education efforts regarding the nature and requirements
104 of classifying an individual;

105 (c) how to promote efficient and effective information sharing amongst the member
106 agencies; and

107 (d) the need, if any, to create by statute a database or other method to facilitate sharing
108 of information related to misclassification.

109 (4) A member agency shall cooperate with the commission and council to provide
110 information related to misclassification to the extent that:

111 (a) the information is public information; or

112 (b) providing the information is otherwise permitted by law other than this chapter.

113 (5) (a) A record provided to the commission or council under this chapter is a protected

114 record under Title 63G, Chapter 2, Government Records Access and Management Act, unless
115 otherwise classified as private or controlled under Title 63G, Chapter 2.

116 (b) Notwithstanding Subsection (5)(a), the commission or council may disclose the
117 record to the extent:

118 (i) necessary to take an administrative action by a member agency;

119 (ii) necessary to prosecute a criminal act; or

120 (iii) that the record is:

121 (A) obtainable from a source other than the member agency that provides the record to
122 the commission or council; or

123 (B) public information or permitted to be disclosed by a law other than this chapter.

124 Section 5. Section **63I-1-213** is amended to read:

125 **63I-1-213. Repeal dates, Title 13.**

126 ~~[(+)]~~ Title 13, Chapter 16, Motor Fuel Marketing Act, is repealed July 1, 2012.

127 ~~[(2)]~~ ~~Title 13, Chapter 46, Independent Contractor Database Act, is repealed July 1,~~
128 ~~2013.]~~

129 Section 6. Section **63I-1-234** is amended to read:

130 **63I-1-234. Repeal dates, Titles 34 and 34A.**

131 (1) Title 34, Chapter 47, Worker Classification Coordinated Enforcement Act, is
132 repealed July 1, 2013.

133 ~~[(+)]~~ (2) Section 34A-2-202.5 is repealed December 31, 2020.

134 ~~[(2)]~~ (3) Section 34A-2-705 and Subsection 59-9-101(2)(c)(iv) are repealed July 1,
135 2013.

136 ~~[(3)]~~ (4) Title 34A, Chapter 8a, Utah Injured Worker Reemployment Act, is repealed
137 July 1, 2014.

138 Section 7. **Repealer.**

139 This bill repeals:

140 Section **13-46-101, Title.**

141 Section **13-46-102, Definitions.**

142 Section **13-46-103, Scope.**

143 Section **13-46-201, Creation.**

144 Section **13-46-202, Duties of the council.**

145 Section **13-46-301, Creation.**

146 Section **13-46-302, Confidentiality of information in the database.**

147 Section **13-46-303, Liability.**

148 Section 8. **Effective date.**

149 If approved by two-thirds of all the members elected to each house, this bill takes effect
150 upon approval by the governor, or the day following the constitutional time limit of Utah
151 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
152 the date of veto override.