

2009 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB75)

Received: **06/10/2009**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3847**

By/Representing: **Shanovich (RR)**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination
Employ Priv - worker's comp
Unemployment Insurance
Tax, Individual - income**

Extra Copies: **JTK, RNK, MES**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Shanovich (RR) -

Topic:

Construction contractors; willful misclassification

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 06/10/2009	jdyer 06/10/2009		_____			
/1			mduchek 06/10/2009	_____	cduerst 06/10/2009		
/2	gmalaise 06/10/2009	wjackson 06/10/2009	mduchek 06/10/2009	_____	cduerst 06/10/2009		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

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/?	gmalaise 06/10/2009	jdye 06/10/2009		_____			
/1		1/2 Wlj 6/10	mduchek 06/10/2009	_____	cduerst 06/10/2009		

FE Sent For:

MD
6/10
MD
CD

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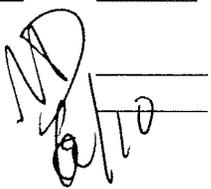
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/?	gmalaise	1 6/10 jld					

FE Sent For:

<END>

Malaise, Gordon

From: Shanovich, Ron
Sent: Wednesday, June 10, 2009 11:32 AM
To: Malaise, Gordon
Subject: Assembly amendment

Attachments: 20090609122156911

Gordon this should be changed somewhat. DWD should be given rule making authority to define "willful misclassification".



2009060912215691
1.pdf (38 KB)

The other stuff is not yours. Thanks Ron

Malaise, Gordon

From: Kreye, Joseph
Sent: Wednesday, June 10, 2009 11:41 AM
To: Shovers, Marc; Malaise, Gordon; Kite, Robin
Subject: FW: Assembly amendment

Attachments: 20090609122156911

From: Shanovich, Ron
Sent: Wednesday, June 10, 2009 11:35 AM
To: Kreye, Joseph
Subject: Assembly amendment

Joe could you make the withholding changes in this? DOR has authority to promulgate rules to define "willful misclassification" under current law. Also, who should do the Commerce draft (Safety & Buildings) Thanks Ron



2009060912215691
1.pdf (38 KB)

Assembly Democrats
2009-11 Budget Amendment Request

Date: June 7, 2009

Legislator: Rep. Cory Mason **Staff Contact:** Vicky Selkove

Statement of Amendment Intent: *Amend motion passed by Joint Finance Committee*

Agency: Department of Revenue & Department of Commerce

Summary:

Amend item #2 ("Construction Contractors") in Motion #755— passed by the Joint Finance Committee on May 28th in the following three ways:

1. Specify that withholding on payments shall only be required to be paid no more frequently than quarterly;
2. Specify that the rule-making authority given to the ~~Department of Commerce~~ by Motion #755 be emergency rule-making authority and that it must include a specific determination of the definition of the term "willful misclassification;" and
3. Require the Department of Revenue to also promulgate administrative rules, under emergency rule-making authority, if necessary, to carry out and implement this provision.

Fiscal Impact: N/A

Funding Source *(if applicable):*

*Talk to
Lassa before
Caucus*

DWD



①
Jld

LFB:.....Shanovich (RR) - Construction contractors; willful misclassification

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2009 ASSEMBLY BILL 75

1 At the locations indicated, amend the substitute amendment[✓] as follows:

2 **1.** Page 1188, line 10: after “**contractors.**” insert “(1)”[✓].

3 **2.** Page 1188, line 13: after that line insert:

4 “(2)[✓] The department shall promulgate rules defining what constitutes a willful
5 misclassification of an employee as a nonemployee[✓] for purposes of sub. (1)[✓] and of ss.
6 102.07 (8) (d)[✓] and 108.24 (2m)[✓]. The department may use the emergency rules
7 procedure under s. 227.24[✓] to promulgate those rules. Notwithstanding s. 227.24 (1)
8 (c)[✓] and (2)[✓], those emergency rules may remain in effect until a subsequent rule is
9 promulgated under this subsection[✓] or until the date on which permanent rules take
10 effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a)[✓] and (3)[✓], the department

1 is not required to provide evidence that promulgating a rule[✓] under this[✓] subsection
2 as an emergency rule is necessary for the preservation of the public peace, health,
3 safety, or welfare[✓] and is not required to provide a finding of emergency for a rule
4 promulgated under this subsection.”[✓].

5 (END)



LFB:.....Shanovich (RR) - Construction contractors; willful misclassification

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2009 ASSEMBLY BILL 75

Violation

1 At the locations indicated, amend the substitute amendment as follows:

2 ~~1. Page 1188, line 10: after "contractors" insert "(1)".~~

3 ~~2. Page 1188, line 13: after ~~the line~~ insert~~

4 ⁽²⁾ The department shall promulgate rules defining what constitutes a willful
5 misclassification of an employee as a nonemployee for purposes of ^{this section} ~~sub. 11~~ and of ss.

6 102.07 (8) (d) and 108.24 (2m). ⁽¹⁾ The department may use the emergency rules
7 procedure under s. 227.24 to promulgate those rules. Notwithstanding s. 227.24 (1)

8 (c) and (2), those emergency rules may remain in effect until a subsequent rule is
9 promulgated under this subsection or until the date on which permanent rules take
10 effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the department

Please fix comp.

1 ~~is not required to provide evidence that promulgating a rule~~ under this subsection
2 ~~as an emergency rule is necessary for the preservation of the public peace, health,~~
3 ~~safety, or welfare and is not required to provide a finding of emergency for a rule~~
4 ~~promulgated under this subsection.”.~~

(END)

5



Inst
2-4 ✓

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0891/2ins
GMM.....

(INSERT 2-4)

- ① ~~#~~ Page 1840, line ²²~~27~~: after that line insert:
- ② ³ⁱ~~(2c)~~ CONSTRUCTION CONTRACTORS; EMERGENCY RULES. Using the procedures
3 under section 227.24 of the statutes, the department of workforce development may
4 promulgate the rules required under section 111.327 of the statutes, as created by
5 this act, for the period before the effective date of the permanent rules promulgated
6 under that section, but not to exceed the period authorized under section 227.24 (1)
⑦ (c) and (2) of the statutes. Notwithstanding ^{section} 227.24 (1) (a) and ^{of the statutes} (3), the department
8 is not required to provide evidence that promulgating a rule under this subsection
9 as an emergency rule is necessary for the preservation of the public peace, health,
10 safety, or welfare and is not required to provide a finding of emergency for a rule
11 promulgated under this subsection.”

(END OF INSERT)



LFB:.....Shanovich (RR) – Construction contractors; willful misclassification

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2009 ASSEMBLY BILL 75

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1188, line 13: after “violation.” insert “The department shall
3 promulgate rules defining what constitutes a willful misclassification of an employee
4 as a nonemployee for purposes of this section and of ss. 102.07 (8) (d) and 108.24
5 (2m).”.

6 **2.** Page 1840, line 22: after that line insert:

7 “(3i) CONSTRUCTION CONTRACTORS; EMERGENCY RULES. Using the procedures
8 under section 227.24 of the statutes, the department of workforce development may
9 promulgate the rules required under section 111.327 of the statutes, as created by
10 this act, for the period before the effective date of the permanent rules promulgated

1 under that section, but not to exceed the period authorized under section 227.24 (1)
2 (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the
3 statutes, the department is not required to provide evidence that promulgating a rule
4 under this subsection as an emergency rule is necessary for the preservation of the
5 public peace, health, safety, or welfare and is not required to provide a finding of
6 emergency for a rule promulgated under this subsection.”.

7 (END)