

# MAINE STATE LEGISLATURE

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(Filing No. H-937)

LABOR

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1287, L.D. 1847, Bill, "An Act To Clarify the Unemployment Laws Relating to Subcontractors"

Amend the bill by striking out the title and substituting the following:

'Resolve, To Require the Department of Labor, in Consultation with Interested Parties, To Examine the Laws and Practices Regarding the Definition of "Employment" for Purposes of Unemployment Compensation'

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Sec. 1. Definition of employment. Resolved: That the Department of Labor, in consultation with interested parties, shall study the laws and practices used in defining "employment" for purposes of unemployment compensation. The study must include an examination of the following issues and any others the department or an interested party determines to be appropriate:

1. The adequacy of current laws and standards that define "employment" for purposes of unemployment compensation, including the Maine Revised Statutes, Title 26, section 1043, subsection 11, paragraph E, to distinguish accurately between persons who are bona fide independent contractors and those who should be considered employees;

2. The need for, or benefit of, revising the Department of Labor survey instrument used to determine who is a bona fide independent contractor;

COMMITTEE AMENDMENT

3. The need for, or benefit of, the State's adopting Internal Revenue Service guidelines for determining who is a bona fide independent contractor;

4. The need for, or benefit of, the State's adopting the same criteria for determining who is a bona fide independent contractor for purposes of unemployment compensation that it now follows for purposes of workers' compensation; and

5. The need for, or benefit of, the State's instituting a precertification program for bona fide independent contractors similar to programs in Montana and other states; and be it further

**Sec. 2. Report. Resolved:** That the Department of Labor, after consultation with interested parties, shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters by January 15, 2007 regarding this resolve. The report must include findings, recommendations and any proposed implementing legislation. The joint standing committee of the Legislature having jurisdiction over labor matters may report out legislation relating to the subject matter of this resolve to the First Regular Session of the 123rd Legislature; and be it further

**Sec. 3. Participants in study. Resolved:** That, in conducting the study under section 1 and preparing the report under section 2, the Department of Labor shall call upon interested parties to participate and offer comment and shall offer equal participation to representatives of both management and labor interests, including, but not limited to, representatives of:

1. Contractors who employ the services of subcontractors;

2. Self-employed, unincorporated subcontractors;

3. Persons engaged in the installation of flooring materials; and

4. Attorneys who practice in labor law, including the areas of unemployment compensation and workers' compensation law; and be it further

**Sec. 4. Funding. Resolved:** That the Department of Labor shall seek outside funds from the Federal Government, nonprofit foundations and other appropriate public or private sources to fund the costs of the study. Contributions to support the study may not be accepted from any party having a pecuniary or other

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2 vested interest in the outcome of the matters being studied. To  
the extent that outside contributions are inadequate to pay for  
4 all costs of the study, the department shall make every effort to  
complete the study and report within existing budgeted resources.'

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**SUMMARY**

10 This amendment strikes the bill and replaces it with a  
12 resolve. The resolve requires the Department of Labor to conduct  
a study of the laws and practices regarding the definition of  
14 "employment" for purposes of unemployment compensation. The  
department shall call upon interested parties in conducting its  
16 study and shall submit a report to the joint standing committee  
of the Legislature having jurisdiction over labor matters with  
its findings, recommendations and any proposed implementing  
18 legislation.

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**FISCAL NOTE REQUIRED**  
(See attached)



# 122nd MAINE LEGISLATURE

LD 1847

LR 2986(04)

**An Act to Clarify the Unemployment Laws Relating to Subcontractors**

**Fiscal Note for Bill as Amended by Committee Amendment "B"**

**Committee: Labor**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Department of Labor to conduct the required study and issue the required report can be absorbed utilizing existing budgeted resources and the outside contribution provisions included in this legislation.