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Misclassifying jobs costs workers, state

Government must crack down on firms that call employees 'contractors'

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Michigan needs to fight a national problem that hurts working families by denying some employees benefits and keeping tax revenues from state government -- employee misclassification.

Misclassification occurs when an employer hires and classifies a worker as an independent contractor, rather than an employee. This allows an employer to prevent the worker from receiving certain benefits. In turn, the state loses crucial tax revenues, while the employer gains an unfair competitive advantage. This practice is essentially a form of tax fraud. It is becoming all too common.

This growing problem has cost our state more than \$129 million in Social Security taxes, unemployment tax and federal and state income taxes. Last year, Gov. Jennifer Granholm ignited interest in this issue when she created an enforcement task force to investigate misclassification in all industries.

A 2008 statewide study showed that 30 percent of Michigan employers underreport payroll by misclassifying workers. In the construction industry alone, 26 percent of employers misclassify.

"Construction is a very competitive business with contracts frequently awarded to low bidders," says Matthew F. Capece, representative of the general president for the United Brotherhood of Carpenters in Washington. "Unscrupulous employers that fail to pay employment taxes, workers compensation premiums and overtime can save 30 percent or more on labor costs, allowing them to underbid their law-abiding competition."

We cannot allow this fraudulent activity to continue. The Legislature should strengthen laws by creating penalties for those who abuse the system and instituting incentives for employers who play by the rules. Current federal legislation provides an important step toward solving this problem.

In May 2008, Congress introduced the Protecting Workers from Misclassification Act in the House and the Employee Misclassification Prevention Act in the Senate. These bills make it a violation to improperly classify an individual as an employee. They require state labor departments to establish auditing systems to identify employers who misclassify or pay unreported compensation.

Such information could then be shared with the Internal Revenue Service.

It is crucial that we redefine the role of a contractor and institute penalties for any employer who knowingly or unknowingly classifies an employee improperly and fails to pay benefits. It is time we place power back into the hands of our workers.

As Capece noted in his Sept. 15 Survey of Federal and State Actions to Counter Misclassification Fraud: "We are not seeking new employment benefits -- only better enforcement of what the law already requires, fair competition and more vigilance by the construction industry."

Whether this occurs in the construction industry or elsewhere, companies that misclassify their workers are taking advantage of all working families. Michiganians should not stand for this -- especially not now, when our state is suffering in such a dire economy.

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Additional Facts

Labor Voices

Labor Voices columns are written on a rotating basis by United Auto Workers President Ron Gettelfinger, Teamsters President James Hoffa, Michigan AFL-CIO President Mark Gaffney and Michigan Education Association President Iris Salters. On months with five Wednesdays, a guest columnist joins the rotation. Today it is Mike Jackson of the Michigan Carpenters Council. Look for Labor Voices every Wednesday in The Detroit News.